Saskatchewan

Highways and
Transportation

Saskatchewan's Analysis of the Report of the *Canada Transportation Act* Review Panel June 2001

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Saskatchewan Response to the *Canada Transportation Act* Review

The *Canada Transportation Act* (CTA) Review Panel recently (July 18, 2001) publicly released its report after one year of work. The key task of the CTA Review Panel was to comment upon the national regulatory environment's ability to "provide Canadians with an efficient, effective, flexible and affordable transportation system". The Government of Saskatchewan fully participated in the CTA Review process through two formal submissions (one to each Phase of the Review) and numerous discussions with the Panel, its staff, and other stakeholders.

Transportation infrastructure and services are of vital interest to all provinces and Canada as a whole, but they are of particular interest to Saskatchewan. Saskatchewan is a very export dependent province, and Saskatchewan's exports are predominantly bulk commodities. Saskatchewan is more distant from its markets for its exports than most of its competitors. Effective transportation is thus vital to Saskatchewan's present and future prosperity. With a small population spread over a large area, transportation is also a key component of social well-being in Saskatchewan.

Saskatchewan's submissions, and the recommendations contained therein, were based primarily upon a simple, clear vision:

> **"Saskatchewan envisions a national regulatory environment that supports healthy working relationships between industry and transportation services. This regulatory environment must include three key principles: *competition, co-operation, and commitment*"** (I p. 7 and II p. 9).

Intent and Structure of this Analysis

The following document constitutes Saskatchewan's analysis of the CTA Review Panel report and its recommendations.

The primary intent of this analysis was to treat the CTA Review process in good faith as a learning exercise for all involved. The analysis assesses the recommendations of the Panel in the light of the evidence and reasoning they present, and assesses them against current Saskatchewan positions as presented in their two formal submissions to the Panel.

The intent of this analysis was *not* to simply reiterate past Saskatchewan recommendations; these recommendations were already clearly put forward in Saskatchewan's two submissions. *Nor* was the intent to make new recommendations. The Panel's work is now complete, so new recommendations at this time have no obvious purpose. At some future point current Saskatchewan positions will need to be formally reassessed in light of what has been learned through the CTAR process. At a minimum, this will be required for Saskatchewan to effectively participate in the federal legislative process. It is quite possible that new recommendations may be proposed by Saskatchewan in future forums.

In our analysis of the Panel's report, Saskatchewan first reviewed each recommendation of the Panel individually. However, a simple recommendation by recommendation approach to the Panel's work proved to be only the starting point of effective analysis. The Panel developed themes and principles with enabling recommendations that fit together as a whole, rather than individually. Saskatchewan echoed this approach by gathering the many topics dealt with by the Panel into key themes of primary interest to Saskatchewan. The review of key themes forms Part 1 of this analysis, while the review of each individual recommendation forms Part 2 of this analysis.

A Note Regarding Quotations

Quotations in this document that are not fully attributed are either:

- quotations from the CTA Review Panel Report, "Vision and Balance, Report of the Canada Transportation Act Review Panel, June 2001"; attributed simply with the page number upon which the quotation appears in the report e.g. (p. 291); or,

- quotations from either the first or second Saskatchewan submissions to the CTA Review Panel: "Saskatchewan Submission to the *Canada Transportation Act* Review Panel on Competitive Rail Access Provisions", and "Saskatchewan Submission to the *Canada Transportation Act* Review Panel on Rail, Air, Ports and Road Issues, March 30, 2001"; attributed by a Roman numeral I for the first submission or II for the second submission, followed by a page number e.g. (II p.9).

PART I

Thematic Review

This section represents Saskatchewan's initial response to key themes that we see put forth in the CTA Review Panel report. The themes of primary interest, thus far, to Saskatchewan are:

1. Competition
2. Integration between modes and jurisdictions
3. Shared responsibility between jurisdictions
4. A national vision
5. Accountability and data

Summary of Saskatchewan Position, by Theme

1. **Competition**: Saskatchewan finds the Panel's analysis of competitive conditions in rail, and the appropriate regulatory responses, to be amiss in its assumptions due to lack of data and thus unsupportable. In particular, Saskatchewan cannot support an untoward emphasis on simply facilitating 'commercial negotiations', including the Panel's recommendation to remove the grain revenue cap towards this end, without any evidence of an adequate competitive environment.

   Saskatchewan has consistently stated that deregulation which simply allows the free exercise of monopolistic market power is unacceptable in an economic sector of vital public interest. At a minimum, Transport Canada must conduct in-depth study of the actual existing level of competition, using all information on existing relationships between railways and shippers, before proceeding any further with 'deregulation' measures that presuppose the existence of such competition.

2. **Integration between modes and jurisdictions**: Saskatchewan fully supports the Panel's goal of "fostering a seamless transportation system, one that facilitates interchange and integration of modal services and all the components involved in supply chains" (p. 307) and the Panel's related guiding principles of harmonization and transparency.

3. **Shared responsibility between jurisdictions**: Saskatchewan supports the Panel's conclusion that the federal government should have a long-term role in funding road infrastructure. Saskatchewan is willing to participate in exploring the Panel's innovative concepts relating to the management of our nation's road systems jointly with other jurisdictions, and feels such concepts could be extended to all forms of transportation infrastructure.

4. Saskatchewan cautions that any national approaches to transportation planning must recognize that there are often very distinct differences in needs between regions, and a 'one size fits all' national template is often inappropriate. Also, the Panel's suggestion of dedicating a specific revenue source (federal fuel taxes) to a specific funding program is very much counter to the existing norm between the federal and provincial governments.

5. **A national vision**: Saskatchewan fully supports the Panel's clear call to embody a broad vision in national transportation policy, "to bring greater co-ordination, harmonization and integration of the various transportation modes" (p. 305).

6. **Accountability and data**: Saskatchewan welcomes the Panel's clear recognition of the fundamental need for decision frameworks for transportation investments based upon accountability and transparency, which are supported by data and research. Saskatchewan supports the Panel's call for much greater availability of data throughout the transportation sector. For Saskatchewan, accountability, and the data to support it, is also key to the co-operation and commitment that is the base of effective transportation relationships, in both the commercial and public spheres.

1. Competition

Saskatchewan Position

"Saskatchewan envisions a national regulatory environment that supports healthy working relationships between industry and transportation services. These relationships are founded upon and require a regulatory environment that supports three key principles: competition, co-operation, and commitment.

Competition is the incentive for high efficiency, improved service levels, and innovation. In a modern economy, no part of the transportation network can be insulated from competition. This has been recognized by Parliament in the National Transportation Act, 1987 (NTA, 1987) and in Section 5(b) of the CTA that states, "competition and market forces are, whenever possible, the prime agents in providing viable and effective transportation services".

Co-operation is always inherent to some degree in competition. In a traditional supply chain environment, each firm will co-operate to the extent necessary to maximize its own efficiency and profits. However, co-operation in a value-adding supply chain is much broader. Co-operation channels competitive measures towards solutions that enhance the efficiency and profits in the entire supply chain rather than 'destructive' actions that simply allow one part of the chain to extract benefits from other parts. A major transition is occurring in management strategy and practice towards a recognition that:

> *"Success in the marketplace is as much a function of the ability to co-operate as it is of the ability to compete. Rather than competing head-to-head against each other, firms have increasingly come to believe that they compete by learning, partnering, thinking, redesigning, and innovating faster than those they compete against."1*

Commitment is the foundation of a sound partnership where, to be successful over time, each partner must be willing to invest in long-term relationships with other partners in the supply chain to jointly create and share opportunities, efficiencies, and profits. Commitment is key in modern resource extraction industries that require large sunk costs by the shipper and often by the carrier as well. These industries are a large part of the western provinces' economies.

Consistent with this vision, Saskatchewan seeks a transportation network that provides travelers and shippers with quality, timely and safe services at a reasonable cost and that contributes to the economic and social development of the province. Saskatchewan supports the concept that communities should be the driving force behind an improved transportation system. A viable, cost-effective and competitive transportation network is not merely essential for Canada's continued prosperity, but is critical to ensuring that the publicly-owned infrastructure is preserved from further deterioration and remains sustainable for future generations. Further, a competitive transportation network ensures that shippers are encouraged to allocate resources into the best opportunities to maximize consumer and producer surpluses and best grow the overall economy" (II p. 9).

Recommendation: The vision statement must clearly continue the primacy of competition; where regulation is necessary to serve the transportation needs of shippers and travelers, the regulations should correct the market to obtain an outcome similar to that achievable under competitive market conditions (II p. 22)

"In markets where there is no effective competition, Saskatchewan supports the view that government regulation is necessary to prevent firms with market power from abusing this power" (II p. 22).

Analysis of the CTA Panel Position

"The Panel concurs with the current policy statement that the goals of transportation policy are best achieved by relying on market forces and competition as far as practicable … Very limited or restricted competition is different from the market ideal … Regulation is warranted where competitive forces are weak or lacking" (p 20, 21).

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[1] J. Liedtka, "Constructing an ethic for business practice: competing effectively and doing good", *Business and Society*, (September 1998) at p.254.

Saskatchewan welcomes the Panel's apparent recognition that competition should be a fundamental organizing principle of the transportation system, and that regulation is necessary where competition is lacking.

Saskatchewan also concurs with the Panel's observation that "competitive access is not only a rail concept; it could arise in other modes whenever there is a need or an opportunity for competitors to share facilities" (p. 21). However, as does the Panel, Saskatchewan will focus upon the topical issue of rail competition in its current analysis of this concept.

Disagree with the Premises of the Panel's Framework for Competition

Saskatchewan finds the Panel's proposed framework for competitive measures, particularly in the area of increased rail access, do not measure up to the principles espoused by the Panel and mandated in their terms of reference. The Panel's proposed framework appears to be premised upon two assumptions:

- that in the long run, "the interests of railways and shippers are the same"; and,
- that rail traffic "demand is static or rising slowly".

From our perspective, these assumptions are flawed – we discuss them further below.

The Panel also had a mandate to ensure a regulatory framework capable of "sustaining expenditures to enhance productivity and promote innovation" (p. 2) which the Panel interprets as a need for rail firms, at least, to always be revenue adequate, i.e. that they "earn sufficient revenues to cover all costs, including long-run capital costs and return on investment" (p. 21).

The Role of Differential Pricing

Given the Panel's mandate, interpretation, and assumptions, the Panel apparently sees only one solution: differential pricing, i.e., "the railways' practice of recovering the common costs of their network by charging different percentage mark-ups, over and above identifiable costs, depending on the responsiveness of shippers' demand for services to changes in freight rates" (p. 29). The result of differential pricing is that the most *captive shippers* – those most dependent upon rail and with the lowest negotiating power (such as most Saskatchewan grain exporters) – are charged the highest rates.

The Panel regards competition as a threat to differential pricing, which is perhaps the rationale for the Panel's position that competitive measures should be a last resort and unique remedy (rather than as a core principle in a regulatory framework that best supports an efficient, effective, flexible and affordable system).

"The issues of differential pricing and competitive access cannot be separated completely from the issue of capital sustainability … In considering competitive access proposals, their impact on capital expenditure sustainability must be weighed carefully …" (p. 53).

"Treatment of the issues surrounding differential pricing mirrors the Panel's approach to rail access generally. The recommendations are intended to foster a regulatory regime that identifies specific instances of potential market abuse or anti-competitive behaviour and provides focused and appropriate remedies" (p. 59).

Saskatchewan believes that competition must be the first choice, rather than the last choice, in the regulatory structure of our transportation systems. In the specific case of rail competition, as explained further below, Saskatchewan believes that several of the apparent assumptions made by the Panel are incorrect and that differential pricing is not the only possible mechanism to a revenue-adequate system.

Long term Interests of Railways and Shippers

"Indeed, in the long run, the interests of railways and shippers are the same" (p. 52).

Saskatchewan disagrees with the Panel's assumption that the interests of railways and shippers are the same in the long run. If there is a predominance of market power on *either* side then the interests of each side are quite different. Indeed, it is the opinion of Saskatchewan that reconciling these *differing* interests towards the *public* interest is precisely the purpose of an economic regulatory structure. If interests did not diverge, there would only be a need for facilitation at most, rather than economic regulation.

The Panel could have explored the validity of their assumption through analysis of the existing indicators of the actual commercial relationships between railways and shippers: the details of confidential contracts between railways and shippers, and the details of disputes between railways and shippers that required final offer arbitration (FOA) or other interventions by the Canada Transportation Agency. However, much of this information was apparently not available to the Panel, who note that the Canada Transportation Act "restricts Transport Canada from gathering information where to do so would require … a confidential contract made under the Act" (p. 291).

The lack of such analysis in the CTA Review process makes problematic such statements by the Panel as: "Government should be involved in regulating commercial relationships only when one party is abusing market power. Proposals to extend the interswitching limit assume that railways are behaving in this manner. No evidence before the Panel suggests this kind of market power exists in every circumstance where expanded interswitching would be available." (p. 64, our underlining) Saskatchewan suggests that such evidence does *potentially* exist – it is simply currently inaccessible.

Suppressing such evidence would obviously be in the interest of any monopolist subject to potential regulatory restrictions to the exercise of its market power. The Panel's apparent reasoning that we must assume no exercise of market power since there is no evidence of it before the Panel, despite the Panel's recognition of inaccessible potential evidence, is analogous to being "freed on a technicality".

The assumption of similar interests, and related assumption that competition must exist if there is no evidence before the Panel to the contrary, likely play a substantial role in the Panel's otherwise unwarranted and simplistic emphasis upon facilitated 'commercial negotiations', through further deregulation, as an appropriate solution to many of the competitive rail access issues put before it.

Saskatchewan has consistently stated that deregulation which simply allows the free exercise of monopolistic market power is unacceptable in an economic sector of vital public interest.

At a minimum, Transport Canada must conduct in-depth study of the actual existing level of competition, using all information on existing relationships between railways and shippers, before proceeding any further with 'deregulation' measures that presuppose the existence of such competition.

Parties to existing confidential contracts cannot likely be retroactively required to provide such information. However, there are parties to such contracts who advocate further deregulation, based upon claims to existing high levels of competition. These same parties control the data required to objectively judge the true current state of competition. The claims of such parties should not receive serious attention until they demonstrate full efforts to allow appropriate access to the information in their possession.

We note that in grain competition, a sector where the level of competition is perhaps most at issue, there *is* already the power, enacted through federal Bill C-34, to review confidential contracts through the grain transportation monitor. Timely action by the federal government to fulfill its commitment to establish the monitor could have provided substantive factual input on the real state of competition in grain transportation to the CTA Review process (discussed further in federal history in rail competitive measures, below).

Access to actual confidential contracts is also necessary to test the validity of an apparent assumption about such contracts by the Panel in its recommendations on level of service obligations: "... in most commercial transactions, including confidential contracts between a railway and a shipper, the purchaser knows what service will be provided for the price charged" (p. 62). This assumption forms the basis of the Panel's recommendation that service levels be attached to rates in published tariffs. Saskatchewan suggests that this assumption be tested through analysis of existing contracts before regulatory changes based upon this assumption are pursued.

Demand for Rail Services

"Increased demand — in telecommunications and natural gas — and new low-cost technologies and sources of supply created space for new entrants. No such factors are at work in the rail industry: demand is static or rising slowly, and no innovative technologies offer the promise of greatly reduced costs or significantly new ways of doing business" (p. 58).

Despite continuous claims by the railways themselves to be losing traffic to trucks, the Panel apparently sees no scope for railways to reverse this trend and *increase* their traffic. Implicit road subsidies or other price disadvantages claimed by railways may well play a role in this traffic loss. But shippers using trucks generally pay substantially more than they would pay for movement by rail, suggesting that price is not the primary factor.

The key factor may well be *service* – railways in their current configurations may simply not provide it at the level required by shippers (and supply chain trends mean that the proportion of such shippers is rapidly increasing). With the ability to simply raise rates to remaining captive shippers through differential pricing, railways have limited incentive to compete through service. Indeed, if railways *do* currently exploit market power, it is conceivably in the interest of railways to decline to compete for any traffic that would increase transparency of rates and/or service levels, since this could provide an unfavorable basis for comparison for shippers subject to market power.

Thus, rather than a *loss* of markets to trucks, railways may be better characterized as *giving up* markets to alternative modes. While not minimizing the value of railways' efforts to reduce operational costs, there is a common pattern in capital-intensive industries of cutting costs to improve short-term financial performance, rather than investing in the capabilities required to compete for markets. It is quite likely that a captive customer base, and an associated ability to raise rates without relation to cost of service, increases the incentive to focus upon short-term cost cutting rather than expanding markets to distribute costs over a larger customer base.

The Panel's assumption of static demand leads to a false conclusion that lower rates for shippers can only be achieved through lower revenues to railways: "Balancing user demands for lower rates with the railways' need for revenues sufficient to maintain the system will not be easy" (p. 51). The Panel also seems to see a similar and parallel dichotomy between actual competition and an 'efficient' system that provides 'revenue adequacy' for railways. On the whole, the Panel appears to choose 'revenue adequacy' at the expense of competition.

Paradoxically, the Panel is selective about where it sees static revenue opportunities in the rail sector – it appears to see at least the potential for revenue generation in short lines: "The ability of short lines to generate sufficient capital depends almost entirely on their success in generating sufficient traffic and revenues, not on one or another of the regulatory instruments now available or proposed" (p. 52).

If this imbalance (i.e. short lines *can* generate new revenues, other railroads cannot) is indeed the case, a possible solution to the revenue adequacy problem faced by the Panel would be to *increase* the competitive access options for alternative carriers such as short lines, rather than limit them to the restrictive access provisions proposed by the Panel.

An assumption of static demand also makes extremely problematic any measures to "support sustainable development objectives" (CTA Review mandate) by encouraging rail investment. If expenditures in the rail mode for environmental sustainability purposes cannot lead to increased traffic, then it will simply lead to a higher cost structure for existing users, leading in turn to higher rates (through differential pricing), and thus in the long run further discouraging use of the environmentally preferable mode. Saskatchewan accepts that rail has many potential environmental advantages. However, if rail cannot attract traffic, any expenditures to increase environmental sustainability would produce a higher return (in reduced overall environmental impact) if they were directed instead to the modes which *are* attracting traffic.

Need for Economic Regulation

The Panel appears to have mistaken an effect (regulation of excessive rates) for a cause: "There are significant differences between groups, but the average freight rate indices show that rates for the decade beginning in 1988 declined or were stable for every commodity group except grain — the only regulated commodity"(p. 39). The Panel appears to assume, without analysis, that the regulation of grain leads to higher rates, rather than ameliorates an imbalance in market power.

This same flawed analysis leads directly to the Panel's recommendation that "the grain handling and transportation system be moved to a more commercial basis, which could lead to repeal of the revenue cap on grain rates" (p. 73). Given an assumption that the long-term interests of railways and shippers are the same, it may be possible to argue that if removing the revenue cap is in the interests of railways, it must be in the interests of shippers as well.

Saskatchewan does not accept this assumption, and sees grain transportation having the type of imbalance of market power which requires economic regulation in the public interest. At a minimum, substantive data indicating real competition in rail grain traffic must be provided by the third party grain handling and transportation monitor (discussed further below), before any further removal of grain shipper protections, such as the revenue cap, is considered.

Federal History in Rail Competitive Measures

The key concern expressed by Saskatchewan immediately upon the release of the Panel report is that the federal government would negatively impact the interests of shippers and the province if it were to take only a piecemeal approach to the individual recommendations of the report. Saskatchewan observed that the federal government has a recent history, in its response to such reports, of quickly implementing recommendations that remove existing shipper protections while deferring, delaying, or not implementing more systemic measures to create the effective competition that is meant to balance the loss of regulatory protections.

For example, in grain transportation, following the Estey and Kroeger processes, the federal government on May 10, 2000 announced its Bill C-34 grain transportation reform measures, to come into effect at the start of the new crop year on August 1 2000. There was minimal public consultation regarding the Bill C-34 legislation; the Standing Committee on Transportation held several days of hearings on very short notice with no substantive opportunity to consider amendments before passage. Bill C-34 discontinued direct rail freight rate protection for grain (instituting the revenue cap in its place) while deferring many of the competitive provisions, which were meant to offset the loss of rate protection, to Phase 1 of the CTA Review Panel's work.

One federal commitment in the May 2000 announcement was that "... an independent third-party will provide a transparent and continuous monitoring program to assess the overall efficiency of the grain handling and transportation system, including the impact of changes on farmers, the CWB, railways, grain companies, shippers and ports". The analysis of this monitor would seem to be crucial to the CTA Review Panel in any judgements regarding the level of competition in rail grain transportation. The consultancy which will provide the monitor, however, was not even engaged by the federal government until June 2001 (thirteen months after the announcement) and certainly had no opportunity to provide input to the Panel and its report.

As discussed in long-term interests of railways and shippers, above, substantive analysis by the monitor and Transport Canada of the actual existing level of competition is an essential precondition to any further rail 'deregulation' that presuppose the existence of such competition.

2. Integration between Modes and Jurisdictions

Saskatchewan Position

> ***Recommendation: The vision statement must reflect the necessity of integrating modes and jurisdictional responsibilities to benefit clients competing in the global marketplace*** (II p. 23)
>
> *"Transportation issues can no longer be confined within a single mode or a single jurisdiction. Modes are already inextricably linked in the economic landscape – they often both compete and co-operate. For example, trucks often move traffic to and from the rail system and compete directly with the rail movement. One mode's activities often have significant impacts on other modes. A clear example is the relationship between trucking and rail and the associated impacts on Saskatchewan's roads due to changes in grain rail transportation.*

Transportation modes are becoming increasingly integrated by the rapid expansion of value-adding supply chain relationships. These relationships generally require more transportation services as products are generally no longer assembled at one factory but are transported for processing steps between multiple businesses at many locations. This increasing volume of transportation is also occurring within, and adding to, the demand for dramatically increased transportation speed to meet demands for reduced inventory and just-in-time delivery. These new supply chain relationships often involve increased movements between both international and intranational jurisdictions" (II p.23, 24).

Analysis of the CTA Panel Position

The Panel recognizes "the importance of fostering a seamless transportation system, one that facilitates interchange and integration of modal services and all the components involved in modern supply chains" (p. 307).

The Panel found "consensus on several … guiding principles and themes" (p. 17) including:

> **"Harmonization**: Creating a 'seamless' transportation system faces many complications and barriers, including diversity in modal technologies, organization and provision of infrastructure, regulations, and levels of government oversight. Wherever possible, potential technical or institutional conflicts should be minimized or eliminated, especially given the strong link between trade and transportation. The Panel believes that harmonization or compatibility in all facets of transportation among countries (and within countries) is a policy imperative that should be supported and facilitated by legislative mechanisms.
>
> **"Transparency**: Information is essential for both government accountability and competitive markets. Citizens are both taxpayers and consumers, and the more they know the better. The Panel was struck by the limited amount of public data on transportation system functioning and performance. The result of greater access to information will be a transportation system that functions more efficiently and is more responsive to the needs of users and service providers" (p. 18).

Saskatchewan fully supports these principles and will participate in the federal Transportation Blueprint initiative to embody these principles in the national regulatory environment.

3. Shared Responsibility Between Jurisdictions

Saskatchewan Position

> ***Recommendation: In partnership with the provincial and territorial governments, the federal government needs to provide meaningful and long-term funding towards the National Highway System*** (II p. 11)

Recommendation: While recognizing constitutional principles that may arise, the federal and provincial governments need to identify and coordinate their laws and policies to bring greater clarity as to when the modes and their lands are subject to federal or provincial regulation (II p. 19)

Analysis of the CTA Panel Position

Although "Roads are not an explicit part of the Panel's terms of reference" (p. 175) the Panel proposes that the federal government must move from an ad hoc role to a long term, stable presence given the strong interrelation of all transport components which require interrelated policies.

The Panel proposes that an appropriate role for the federal government is to "contribute to a funding and pricing solution that improves the efficiency and sustainability of the transport system" (p. 189) through a system where "in the long term … road network size and quality [are] adjusted to meet the demands only of users prepared to pay the costs" (p.189). The Panel believes that a new transportation funding agency, or agencies, (following a World Bank/New Zealand model) are the best path to such a system and that the federal government "should be prepared eventually to assign road fuel tax revenues to a transport funding agency … of the sort proposed" (p. 191).

Saskatchewan is pleased that the Panel has recognized that the federal government must play a meaningful part in road infrastructure funding. However, it has not been the general practice of Canada, Saskatchewan, or other provinces to dedicate any specific source of government revenue to a specific use.

The Panel's recommendation of a 'road authority' is certainly one possible response to the Saskatchewan submission's call for partnership between governments. The detailed Agency model presented by the Panel is of concern to Saskatchewan because it could potentially thwart any overall provincial, or multi-province regional, strategic plan unless there is co-ordination and co-operation between the proposed Agency and the province(s) and commitment to a unified objective.

Saskatchewan is willing to explore the Panel's innovative concepts relating to the management of our nation's road systems jointly with other jurisdictions, and will discuss the Panel's recommendations with other provincial and territorial governments.

Saskatchewan believes that while the Panel's report provides the impetus to advance the development and implementation of a national roads policy, the federal Blueprint Initiative will be instrumental in the determination of its outcome.

The Panel's suggestion of an Agency is one possible response to the jurisdictional complexities of roads in Canada. The National Highway System could reasonably be described under Section 92(10)(c) of *The Constitution Act, 1867*, which exempts local works or undertakings from provincial jurisdiction, although wholly situated within a province when they are for the general advantage of Canada or the advantage of two or more of the provinces.

However, Section 92(10) of *The Constitution Act, 1867*, recognizes and describes the provinces' jurisdiction over roads (and most short lines operating provincially, unless they fall under Section 92(10(c)). It is unlikely that the provinces would willingly relinquish control of their respective portions of the network. This constitutes a compelling argument for co-operation between the federal government and the provinces and territories in maintaining and upgrading the existing network.

If legislation and policy are amended to allow the Panel recommendations to be implemented, Saskatchewan is concerned with its ability to fund the road network through road user charges given its population and the existing network. Some rationalization of the system is inevitable but it is unlikely that road user charges would enable the province to adequately fund even a smaller more value-based network.

Saskatchewan is also willing to explore the concept of shifting funds from road user charges to other modes, in the interests of maximum overall efficiency, but is cautious of expending public funds where privately owned modes are concerned.

Saskatchewan recognizes that there are many issues that cannot be resolved purely at a provincial level. But, equally, a 'one size fits all' national template is also often inappropriate. For example, the Prairie Provinces have a critical need to create north-south transportation links to accommodate the massive changes in trade patterns following the North American Free Trade Agreement (NAFTA). Such links have already been largely created in Central Canada, where the more pressing issue now appears to be the continental trend of rapidly growing transportation congestion. Saskatchewan notes that the lack of north-south infrastructure in western Canada can also be largely traced to the historic 'national policy' of severing such links in favor of links to Central Canada.

As trade between western Canada, the United States, and Asia increases, Saskatchewan sees strategic trade corridors as the most effective way to target resources towards current and future transportation needs. Such corridors must allow seamless connections among north-south and east-west destinations (II p. 24). Saskatchewan will pursue regional (multi-province and state) initiatives to create the connectivity needed by dynamic modern export economies.

Such a strategy would appear to fit the position of the Panel: "Transport infrastructure investment will be important for the country and its regions. At the same time, these investments do not guarantee economic growth; they must be targeted to where the conditions are right, where complementary resources are present and market developments are taking place. Management and decision frameworks must be in place to foster investment where it will produce the greatest overall return" (p. 22).

4. A National Vision

Saskatchewan Position

Recommendation: Incorporate a vision statement in the Canada Transportation Act (II p. 21)

"A shared vision is an essential precondition to ongoing intergovernmental, intermodal and inter-firm coordination that is crucial to continually improving Canada's shared transportation network to keep pace with global competitors.

The need for such a national vision in transportation policy and decision making has been clearly and eloquently enunciated by Canada's major trade partner and trade competitor – the U. S.:

> *"The new forces that globalization has unleashed confront the international community with challenges and opportunities that fundamentally affect the way government, together with its myriad of stakeholders, makes judgments and decisions about the future. For transportation, this new world of change demands a new way of thinking about transportation's place and contribution to the larger purposes it serves. It demands new tools, new alliances, and a new architecture for determining the intricate choices that transportation entails and creates"* [2]

(II p. 21).

Analysis of the CTA Panel position

The Panel supports the need for 'a new and forceful vision for national transportation policy' (p. 305). The Panel both proposes principles of an 'idealized competitive, market-driven transportation system' (p. 313) and another set of principles that 'embody the major public policy constraints to be imposed upon the system' (p. 313).

The Panel also recognizes the tension between "stronger leadership by the federal government, to bring greater co-ordination, harmonization, and integration of the various transportation modes" (p. 305) and the reality that "… a vision for national transportation policy … cannot be realized by federal policies alone … Much of the transportation system, indeed the majority, is road-based transportation under provincial and municipal responsibility" (p. 305).

Saskatchewan fully supports the Panel's clear call to embody a broad vision in national transportation policy, "to bring greater co-ordination, harmonization and integration of the various transportation modes" (p. 305).

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[2] United States, Department of Transportation, *Transportation Decision Making - Policy Architecture For The 21st Century, Draft for Public Comment* (July 28, 2000) at p.4. Posted at http://ostpxweb.dot.gov/policy/tpa/PolicyArchCommentDraft.pdf .

Saskatchewan welcomes the proposal of principles focused upon competition, but has concerns with the conception of competition embodied throughout the Panel's report (see Saskatchewan's thematic analysis of 'Competition' above).

5. Accountability and Data

Saskatchewan Position

> *" ... fundamental changes require new levels of intermodal and interjurisdictional co-operation. These fundamental changes have occurred as a result of the overall maturity of the transportation network and the rapidly increasing complexity and inter-relationships in the network"* (II p. 24).
>
> *"To assist in future reviews of the CTA, it is necessary to equip the Panel, Transport Canada and stakeholders with data and information to assist in evaluating its performance"* (II p. 33).
>
> *"The key point for effective performance measures is that they must lead to effective actual performance amongst all parts of the transportation network. To do so, they must be focussed upon outcomes instead of processes. The intergovernmental, intermodal and inter-firm coordination required to achieve desired outcomes in the transportation sector can only be accomplished through a clearly described and shared vision of what those outcomes will be"* (II p. 33).
>
> ***Recommendation: Require aviation and rail entities to provide comprehensive data as a means of monitoring consumer protection and competition issues.***
> (II p. 34)

Analysis of the CTA Panel position

The Panel states that a fundamental principle towards "an efficient, effective, flexible and affordable transportation system" must be an effective decision framework, and that such a framework requires accountability and transparency.

"Transportation infrastructure investment will be important for the country and its regions. At the same time, these investments do not guarantee economic growth; they must be targeted to where the conditions are right, where complementary resources are present and market developments are taking place. Management and decision frameworks must be in place to foster investment where it will produce the greatest overall return" (p. 22).

"Accountability and Transparency
Whatever the policy, the Panel believes that the level of public debate and sometimes even corrective action would be facilitated by greater visibility of transactions. Greater availability of data would foster additional private and public policy analysis" (p. 26).

"The Panel believes two key supporting ingredients, data and research, need improvement given the fundamental role they can play in the development of sound public policies" (p. 287). "The Panel recognizes the confidentiality concerns but believes competition and efficiency are hampered by restrictive data access" (p. 292).

Saskatchewan welcomes the Panel's clear recognition of the fundamental need for decision frameworks for transportation investments based upon accountability and transparency, which are supported by data and research. Saskatchewan supports the Panel's call for much greater availability of data throughout the transportation sector.

Saskatchewan notes that the root of our disagreements with the Panel over the role of competition (as discussed in the theme Competition, above) may well flow from the lack of substantive data on this issue, as noted by the Panel.

While the Panel's call for accountability, transparency, and supporting data and research are all welcome, Saskatchewan believes that the Panel may not have fully recognized the vital role of accountability.

For Saskatchewan, the key principals of competition, co-operation, and commitment are the basic requirements to obtain the high levels of transportation co-ordination required in our highly integrated modern economy. All three principles require accountability and transparent information. Co-operation cannot long continue without clear demonstration that all parties are meeting their commitments. And the essence of competition is not so much higher service or lower cost, as it is the simple ability for a party in a commercial relationship to choose to sever the relationship if required levels of co-operation and commitment are judged to not be met.

PART II

Chapters 4 and 5 – Competitive Rail Access

Topic: Level of service

CTA Recommendations

Recommendation 5.1 (p. 63)
The Panel recommends that Sections 113 to 115 of the *Canada Transportation Act* be replaced with a requirement that a railway publish in its tariff the level of service attached to rates in the tariff.

Recommendation 5.2 (p. 63)
The Panel recommends that the Canadian Transportation Agency continue to have the authority to determine whether a railway has met the level of service commitments in a tariff or confidential contract and, in the event of a breach, to order the railway to take specific steps to meet those commitments.

CTA Analysis

The Panel recognizes that *"level of service requirements which define a railway's obligations, are essential; they allow for complaint to the Agency, with the Agency essentially determining whether the railway has fulfilled its obligations."*

The Panel has recommended that the level of service provisions in the CTA be replaced with the requirement that a railway publish, in its tariff, the level of services attached to rates in the tariff. The Final Offer Arbitration (FOA) process would be available to shippers dissatisfied with either the rate charged or proposed to be charged, or with the terms or conditions of service. The Agency would continue to have authority to determine, on application, whether the railway met its commitments and, in the event of non-compliance, to order the railway to take specific measures to meet these commitments.

Saskatchewan Recommendation

These issues were not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The Panel has recommended changes to the level of service that are complex, cumbersome and expensive. The process involves reviewing the dispute, establishing a rate and then determining the level of service for that given rate. A shipper challenging the rate or service would have the opportunity to apply to the CTA for a FOA. As it is set

out, the methodology is a more costly and time-consuming process with a significant monetary threshold. The Panel is under a misconception that the recommendation would improve the system. The review process has gathered no evidence that confidential contracts outline the service that should be associated with a rate. Furthermore, the rate and level of service relationship would change with time and condition and customer. An example of the flaw in analysis is a case where a rate and service are described in time period one. In time period three, a new shipper is trying to access a rate and service but under different conditions. Does that mean that the level of service is comparable to the rate?

Implications for Saskatchewan

The Panel's recommendation will add unnecessary complexity. The agreement by stakeholders in the Kroeger transportation review process in 1999 should form the basis for any future actions by the federal government.

Saskatchewan's Position

Saskatchewan's position is to leave the level of service provisions in the current *Canada Transportation Act* as is. Shippers should determine the required level of service, not railways. Railways should provide quotes to shippers on service levels and rates on this basis. In our submission to the CTA on rail competition we outlined those tools that would be beneficial to the shipper and the carrier. Saskatchewan would also re-instate "the *ex parte* application provision within the revised CTA to grant immediate interim relief to any applicant. Saskatchewan suggests that the Panel recommend re-inserting the previous Section 40(3) in the NTA, 1987 in a revised CTA[3]. The previous Section 40(3) stated:

> The Agency may, if the special circumstances of any case so require, make an interim *ex parte* order authorizing, requiring or forbidding anything to be done that the Agency would be empowered, on application, notice and hearing, to authorize, require or forbid, but no such interim order shall be made for any longer time than the Agency may deem necessary to enable the matter to be heard and determined." (I p. 12)

Saskatchewan's Planned Actions

Saskatchewan will continue to point out the flaws in the analysis to the federal government.

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[3] The *National Transportation Act 1987*, S.C. 1987, c.34.

Topic: Interswitching

CTA Recommendations

Recommendation 5.3 (p. 64)
The Panel recommends that the existing interswitching limits be retained.

Recommendation 5.4 (p. 64)
The Panel recommends that section 128 of the Act, requiring the Canadian Transportation Agency to determine fixed interswitching rates, be amended to allow the Agency to prescribe maximum rates, leaving it open to shippers and railways to enter into commercial arrangements for lower interswitching rates, if appropriate.

CTA Analysis

The Panel has recommended that the existing interswitching provisions in CTA 1996 be retained. In keeping with the intent to have market forces the prime agent to achieving the transportation goals, the Panel recommends to have shippers and carriers negotiate interswitching charges that are lower than the Agency's interswitching rates, where commercial consideration is permitted.

Saskatchewan Recommendations

These issues were not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

Treating interswitching rates as maximum rates is a positive step that shippers should consider.

Implications for Saskatchewan

Saskatchewan shippers are geographically captive to the railways. Interswitching has been effective where it has been used, but due to distance restrictions, it has limited application. As an example, of the seventy-two inland grain terminals in Saskatchewan, thirty-nine have access to two railways under the interswitching provisions. That would mean that thirty-three would be captive to the Class I carriers. The province has indicated in its submission on Rail Competition that the existing provisions in the CTA result in virtually no competition in Saskatchewan for Class I railways.

Saskatchewan's Position

Saskatchewan has presented its position that an open access regime is the preferred system. The competitive access provisions and shipper relief provisions (including the

revenue cap for grain) currently contained in the CTA must remain in place until it is demonstrated that alternative options are providing shippers with the necessary options to offset market power of the railways.

Saskatchewan's Planned Actions

The province is going to continue to describe the implications for shippers and farmers to the federal government.

Topic: Competitive Line Rates

CTA Recommendation

Recommendation 5.5 (p. 69)
The Panel recommends transforming the competitive line rate provisions of the *Canada Transportation Act* into competitive connection rate (CCR) provisions by

- **removing the requirement that shippers obtain an agreement with a connecting carrier before requesting the rate from the Canadian Transportation Agency;**
- **making the remedy available only to shippers with no "alternative, effective, adequate and competitive" means of transporting the goods that would be subject to the rate and where the Agency determines that the rate is substantially above rates paid by other shippers of the specific commodity under similar conditions and that cannot be explained by apparent cost and value of service considerations;**
- **requiring the shipper and the railway to attempt to negotiate a new rate within a 30- day period after the Agency determines that a CCR is required;**
- **requiring the Agency, where the shipper and carrier do not agree on the rate, to establish a CCR, subject to the commercially fair and reasonable test of section 112, with the rate falling in the range of the 75th percentile to the 90th percentile of revenue per tonne-kilometre for movements of the same commodity over similar distances and under the same conditions and levels of service as the CCR portion, together with the interswitching rate for the first 30 kilometres;**
- **allowing for a CCR to be established by the Agency for a period of one year;**
- **prohibiting the shipper from requesting final offer arbitration of any rate being reviewed or established under the CCR process;**
- **prohibiting the shipper from requesting final offer arbitration for the portion of the movement by the connecting carrier;**
- **prohibiting the shipper from requesting a CCR for a rate established by final offer arbitration; and**
- **giving the Governor in Council authority to suspend the CCR provision if it determines that railway viability is seriously affected by the operation of the CCR provision.**

CTA Analysis

The Panel proposes to replace the Competitive Line Rate (CLR) with the Competitive Connection Rate (CCR) that is made available to shippers meeting the criteria with no "alternative, effective, adequate and competitive" means of transporting the goods that are the subject of the CCR. This remedy would not require a prior agreement with the connecting carrier and will not have the criteria of "substantial commercial harm" applied against each case. A shipper that meets this criterion can apply to the agency for a CCR for the movement of traffic to the nearest interchange. In establishing the rate, the Agency would compare the rate paid the shipper (or offered to the shipper) with rates paid by other shippers of the same commodity under similar circumstances. If the Agency concludes that a CCR is required, the railway and the shipper would be given a period of no more than 30 days to negotiate a new rate either to an interchange or for the entire movement. The Panel concluded that a reasonable balance would likely be achieved by calculating CCR using rates in the range of the 75th percentile to the 90th percentile of revenue per tonne-kilometre for movements of the same commodity over distances similar to the CCR portion, together with the interswitching rate for the first 30 kilometres. This would ensure that CCR is available to shippers that are paying rates at the upper end of the scale to move a particular commodity while reducing the risk associated with any downward spiral of pricing based on average revenue per tonne-kilometre. To avoid overlapping shipper protection provisions, a shipper seeking CCR would not be eligible for FOA. The reverse would also apply where a shipper using an FOA rate would not be eligible for the review under the CCR provision.

Saskatchewan Recommendations

(I p. 12) **Amend Competitive Line Rates and rename them "competitive access rates".**

Saskatchewan Analysis

Existing legislation acknowledges that CLR's must be above variable costs. The Panel has increased the complexity of the competitive access provision by establishing conditions.

"CLRs came into effect with the passage of the NTA, 1987. Under a CLR, a shipper obtains a freight rate from a connecting carrier for a movement between an interchange point and the point of destination. The shipper then requests a freight rate from its facilities to the interchange point from the local carrier. If a satisfactory freight rate to the interchange point cannot be obtained by agreement, the shipper can ask the CTAgency to set a rate.

CLRs have not been effective as the primary Class I railways have:

> ... also declined to respond to any shipper requests for connecting carrier rates, so that the CLR procedure could be invoked. As a consequence, the only CLR applications have been for trans-border movements, where the connecting carrier is a United States railroad.[4]

This behavior by Class I railways can only be attributed to their reluctance to directly compete for new traffic/business" (I p. 6).

Implications for Saskatchewan

Should the federal government incorporate the Panel recommendation, the shipper choice to access alternative carriers is diminished.

Saskatchewan's Position

(I p. 12) As Competitive Line Rates (CLRs) provisions have not been as effective as possible in promoting competition, Saskatchewan recommends that these provisions be amended and renamed "competitive access rates" (CARs), a concept proposed by the Canadian Fertilizer Institute and endorsed by the Shippers' Summit. CARs effectively combine the CTA's provisions relating to CLRs by proposing that a shipper would be able to:

> route its traffic to or from an interchange with a connecting railway, up to one half the total distance, under a pre-determined set rate formula. It uses regulated interswitching rates for the first 30 kilometres of the movement and other rates, such as a railway's average revenue per tonne-mile, for the balance of the movement to or from the interchange.[5]

The shipper would be able to obtain competitive bids from both the local and the connecting carriers.

Saskatchewan recommends that competitive access rates (CARs) should be established to give shippers access to a second rail carrier at an interchange located up to one-half the line-haul distance. A commercially based, pre-determined set-rate formula would be used to establish a rate for this movement.

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[4] Saskatchewan, *Competitive Access Provisions of The Canada Transportation Act and the Grain Industry*, prepared by Travacon Research Limited (Renton, Washington, March 1998) at p. 7.

[5] Canadian Fertilizer Institute, *CAR: Competitive Access Rate, Improving & Simplifying Competitive Access* (Ottawa 2000) at p. 3.

Saskatchewan's Planned Actions

Saskatchewan will communicate the recommendation to shippers and support them in their effort to convince the federal government of the shortfall in expected performance of the CCRs and the merits of the key elements of an effective solution for amending Competitive Line Rates to provide competitive access for shippers.

Topic: Substantial Commercial Harm

CTA Recommendation

> **Recommendation 5.6** (p. 70)
> **The Panel recommends that the substantial commercial harm test in Sections 27(2), (3) and (5) of the *Canada Transportation Act* be repealed.**

CTA Analysis

The test focuses on the effect on the shipper, rather than the behavior of the carrier. For this reason the Panel believes that the substantial commercial harm test should be repealed.

Saskatchewan Recommendation

> (I p. 12) **Saskatchewan recommends that Section 27(2) and (3) be repealed.**

Saskatchewan Analysis

"Saskatchewan understands that shippers perceive Section 27(2) as being onerous and are reluctant to bring applications to the CTAgency for remedies under this subsection. Saskatchewan agrees that Subsections 27(2) and (3) be repealed so that relief provisions become similar to what existed previously in the NTA, 1987. These amendments are required to ensure enhanced competition provisions and competitive prices and services are achieved" (I p. 12).

Implications for Saskatchewan

Shippers will have improved competitive access to the CTAgency.

Saskatchewan's Position

This is a positive step for shippers.

Saskatchewan's Planned Actions

Saskatchewan will support the recommendation.

Topic: Commercially Fair and Reasonable

CTA Recommendation

> **Recommendation 5.7** (p. 71)
> **The Panel recommends that the Canadian Transportation Agency, when establishing interswitching rates and competitive connection rates, continue to be guided by the requirement that rates it establishes be commercially fair and reasonable to all parties.**

CTA Analysis

When the Agency is to establish interswitching rates and CCRs it is to be guided by the requirement that rates that are established be commercially fair and reasonable to all parties.

Saskatchewan Recommendation

> (I p. 12) **Saskatchewan recommended that Section 112 be repealed.**

Saskatchewan Analysis

Saskatchewan is disappointed that the Panel did not consider that many shippers recommended, "Section 112 of the CTA be repealed as they feel it is not necessary to create a balanced regulatory framework" (I p. 12). The Panel has suggested the CTAgency, when establishing interswitching rates or CCRs, use the criteria that the rates are 'commercially fair and reasonable to all parties'. "It would appear that the shippers object to this section's reference to "commercially fair and reasonable" which is not effectively defined in the CTA. This lack of definition creates the perception of inconsistent interpretations and uncertainty concerning the relevance of this section in resolving rate and service disputes. Saskatchewan acknowledges that it may be difficult to establish objective methodology to eliminate the shippers' perception and recommends that this section be repealed" (I p. 12).

Implications for Saskatchewan

Continued protection of the monopolistic position of the railway by being able to differential price the captive shippers.

Saskatchewan's Position

Saskatchewan does not agree with the Panel's assessment that the railway may have to provide service below its variable cost and unfairly penalize the railway. The mechanisms in the existing legislation (formula and conditions) provide for CLR's to cover variable costs. Section 128(3) and (4) both provide compensation. This argument supports the monopolistic stance of the railways and is not promoting competition in the rail sector. There is no regard for the shipper if it has to operate where it is not covering variable costs. In any competitive market, no firm is guaranteed any success!

Saskatchewan's Planned Actions

Saskatchewan will continue to present the arguments for a more competitive system.

Topic: Final Offer Arbitration

CTA Recommendation

> **Recommendation 5.8** (p. 72)
> **The Panel recommends that an arbitrator be required, in every arbitration, to consider whether a shipper has alternative, effective, adequate and competitive means to transport the goods that are the subject of the arbitration.**

CTA Analysis

The Panel is satisfied that the FOA provisions, including the new simplified process for lower-value disputes, adequately address the problem of carrier dominance and potential abuse in a way that is fair to both shippers and carriers. The Panel has set out the criteria for disputes less than $750,000 to be the same as those over $750,000. This would apply to all arbitration offers.

Saskatchewan Recommendation

> (I p. 11) **Facilitate access to dispute resolution mechanisms under the CTA.**

Saskatchewan Analysis

Saskatchewan shippers will be at a disadvantage on disputes under $750,000. The FOA for the larger disputes that exceed $750,000 has no recommended changes. The province notes that smaller shippers will not be able to access the remedies provided for by the CTA because the threshold is set high relative to the total value of shipments. The expertise required to construct a case quickly increases the cost of preparation and establishes a barrier to the Agency remedies. A simplified FOA would ensure that disputes do not encounter long drawn out costs where they are not required. During the Estey/Krueger review process, the railways were arguing that the threshold should be raised. This would effectively shut down smaller complaints.

Implications for Saskatchewan

Provides a base to launch negotiations to remedy disputes.

Saskatchewan's Position

Saskatchewan would like the Final Offer Arbitration (FOA) to remain as outlined in the amended CTA.

Saskatchewan's Planned Actions

Saskatchewan will support the recommendation.

Topic: Grain Revenue Cap

CTA Recommendation

> **Recommendation 5.9** (p. 73)
> **The Panel recommends that the grain handling and transportation system be moved to a more commercial basis, which could lead to repeal of the revenue cap on grain rates.**

CTA Analysis

The Panel makes the case that grain transported by rail should not be treated any differently than other commodities. There is also the perception that the "crisis" in the grain industry results in part from failure to move quickly enough to a system where commercial forces are allowed to work. This would lead to removal of the grain revenue cap. It must be pointed out that there was no analysis done to determine if the grain revenue cap was limiting commercial transactions.

Saskatchewan Recommendations

> (II p. 29) **Include incentives, rebates or any similar reductions paid or allowed by the railway company as part of the revenue cap.**
>
> (II p. 29) **Remove discrimination between incentive rates at an elevator and interchange with a provincial railway.**

Saskatchewan Analysis

The grain revenue cap was put in place as a protective measure to replace market forces where shippers are captive to the railways and monopoly powers are exercised. Saskatchewan wants to strengthen the definitions of what would be eligible for the revenue cap. The Panel did not receive any evidence that the grain revenue cap deters from parties entering into commercial agreements. When the federal government repealed the *Western Grain Transportation Act*, the regulated rates no longer required that productivity improvements by the railways be shared with the farmers. The volume related price index is being used to set the single car rates as a maximum value for grain shipments by rail for export. Included in the index is an inflation adjustment. The methodology sets a regulated maximum but does not prescribe a minimum rate. Therefore the argument is incorrect and misleading.

Implications for Saskatchewan

Saskatchewan is concerned that the "Montana" effect will be cast upon this province due to excessive rates charged captive shippers (mainly grain and bulk commodity customers that do not have an option of competition between two railway carriers). It is important to note that the CTA Review is being conducted in the aftermath of recent federal government reforms to the grain handling and transportation system, which includes Bill C-34 amendments to the CTA that came into effect August 1, 2000. The federal government's decision to deregulate the grain handling and transportation system through Bill C-34 without implementing measures to ensure effective rail competition caused significant concern within the agricultural sector. As grain transportation reform initiatives dealing with rail competition issues, including the rail open access recommended in the Estey Review, were deferred to the Panel, it was essential that the Panel address this issue. Mr. Justice Estey's report recognized the importance of increasing rail competition. His view was that deregulation of the grain handling system was necessary to reduce costs and eliminate efficiencies. However, he also recognized that if the system was going to be deregulated, more competition was essential in the rail sector to ensure that the benefits of deregulation flowed to producers. Mr. Kroeger concurred with the stakeholders' report at p. 5 in his September 29, 1999 letter to Minister Collonette by quoting from the report that "the existence of effective competition is a fundamental prerequisite to the operation of a deregulated system". Excluding the two major railways, the stakeholders indicated that special measures were needed to ensure effective competition. Mr. Kroeger recommended that a review of the concept of open access and other competitive measures be carried out so that any measures could be implemented for the 2000/2001crop year.

Saskatchewan's Position

Saskatchewan does not accept this recommendation. The province has always stated that until competition is proven in the railway sector, regulation should be made available to protect shipper and producer interests. Grain shippers are captive to the railways and require regulation where competition is not available.

Saskatchewan's Planned Actions

Saskatchewan will oppose such a recommendation until it is demonstrated that effective competition is common to the rail transportation sector. Continue to work with shippers and stakeholders and other provinces to convince the federal government to live up to their commitment of the Estey report.

Topic: Enhancing Running Rights

CTA Recommendations

Recommendation 5.10 (p. 76)

The Panel recommends that any railway operator, whether under federal or provincial jurisdiction, have the right to apply to the Canadian Transportation Agency for running rights, provided the operator meets all necessary operating and safety standards and is adequately insured.

Recommendation 5.11 (p. 76)
The Panel recommends that the running rights provision of the *Canada Transportation Act* be amended to allow an applicant to seek traffic solicitation rights.

Recommendation 5.12 (p. 77)
The Panel recommends that a railway operator proposing to apply to the Canadian Transportation Agency for running rights be required to advise the infrastructure owner at least 60 days before making the application to encourage negotiations between the parties.

Recommendation 5.13 (p. 79)
The Panel recommends that, as part of its public interest determination on a running rights application, the Canadian Transportation Agency consider, at a minimum,

- **the adequacy of existing service,**
- **the existence of competitive alternatives,**
- **the impact on all users and shippers on lines where running rights are sought**
- **the impact on system efficiency,**
- **the financial and operational capability of the applicant,**
- **the willingness of the applicant to allow reciprocal access to its lines where applicable, and**
- **the impact on the financial viability of the infrastructure owner.**

Recommendation 5.14 (p. 80)
The Panel recommends that guest operators with traffic solicitation rights

- **have the obligation to publish rates at the request of a shipper and to specify the level of service to be provided as part of published tariffs,**
- **have the right to enter into confidential contracts with shippers, and**
- **have authority to limit liability for loss or damage of a shipper's goods only in accordance with section 137 of the *Canada Transportation Act*.**

Recommendation 5.15 (p. 80)
The Panel recommends that interswitching, competitive connection rates and final offer arbitration be suspended with respect to the movement of traffic on lines served by an infrastructure owner and one or more guest operators with traffic solicitation rights.

Recommendation 5.16 (p. 81)

The Panel recommends that running rights orders issued by the Canadian Transportation Agency include a requirement that the guest operator provide reasonable notice when it intends to withdraw service on a line.

CTA Analysis

The Panel recommended amendments to the running rights provisions contained in Section 138 of the current CTA that addresses two areas:

a) allow for any rail operator (both federal or provincial) to apply for either transit rights; and/or

b) allow for traffic solicitation on the host railway.

The railway operator proposing to apply to the CTA for running rights would be required to advise the infrastructure owner 60 days before making the application to encourage negotiations between parties.

Because the Panel believes that imposed running rights should continue to be seen as an extraordinary measure, granted only where the public interest demands it, the Panel rejects the concept of the reverse onus test. Significant public interest considerations include the potential impact of running rights on all users and shippers on a line, the impact on system efficiency, the possible need to require reciprocal access on the applicant's line where applicable as a condition of obtaining running rights, the ability of the guest operator to provide service into the future, and the impact on the financial viability of the host railway.

A guest operator with traffic solicitation rights would be required to publish rates at the request of a shipper and to specify the level of service to be provided as part of published tariffs. The guest operator also has the right to enter into confidential contracts with shippers and the obligations to limit liability for loss or damage of a shipper's goods.

An order granting guest operator running rights with traffic solicitation should therefore have the effect of suspending the interswitching, CCR and the FOA provisions. The order would be in effect until the guest operator gave adequate notice to and terminate service on the line.

Saskatchewan Recommendation

(I p. 11) **As an interim measure, allow "any person" to apply for running rights on and over the lines of any railway infrastructure subject to a reverse onus clause that shifts responsibility onto the owner railway to establish that a running rights order would be prejudicial to the public interest.**

Saskatchewan Analysis

Saskatchewan agrees with the Canadian Shippers' Summit that "railways are no longer considered public utilities that need to be protected; they should be subject to the same pressures as shippers." The province recommended that because we advocate open access, we would support a reverse onus clause as an interim measure during the transition phase from the existing rail system towards open access. Under the reverse onus concept, any person could apply for running rights on and over rail infrastructure of any railway ("owner railway"), regardless of whether the guest railway falls under federal or provincial authority. The CTAgency would consider each party's application on a case-by-case basis. Unlike the existing CTA where the applicant must prove that the application is in the public interest, this proposal would shift the burden of proof to the owner railway to demonstrate that running rights would be contrary to the public interest before the CTAgency could deny the application.

If running rights are agreed to by the owner railway or are granted by the CTAgency, the parties would negotiate access fees, terms and conditions of service. If no agreement could be reached between the parties, the CTAgency would have the power to adjudicate the dispute. The CTAgency should also be given the authority to impose conditions on the applicant railway when granting running rights. The applicant railway should be required to meet all necessary regulatory, operating and safety standards.

The shipper should have the right to specify the required level of service. Shippers served through running rights should retain the right to apply for competitive connection rates, to ensure that they can negotiate reasonable rates and service with connecting carriers.

Implications for Saskatchewan

The recommendations of including running rights provisions with traffic solicitation for federal and provincial railways are a major improvement in federal transportation policy. The exclusion of the reverse onus test for running rights is a major set back. The shipper's ability to effectively bargain with railways will continue to be limited. Saskatchewan has the largest proportion of railway branchlines in Canada spread over the largest geographic area.

Saskatchewan shippers are geographically captive to the railways. The review Panel's recommendations do not support pro-competitive measures. As an example of confusion and uneven application of the provisions: two shippers are on the same line; one with running rights and one with FOA. The CTAgency must then determine whether we use the precedent in the previous decision.

Saskatchewan's Position

Although Saskatchewan supports running rights, the province is not sure why the Panel has described in great detail what the prescription should be for the concept of running rights and what would be the expected outcome.

"Saskatchewan suggests that the reverse onus concept has been effectively used previously in Canada when the federal government changed regulatory provisions impacting the trucking sector beginning with extra-provincial truck undertakings under the *Motor Vehicle Transport Act, 1987* and extending to the deregulation of intra-provincial truck undertakings in January 1, 1998.[6] This deregulation process was reviewed in 1996 prior to the creation of the CTA. Saskatchewan suggests that it would be appropriate for the rail sector to follow the same regulatory path initiated for trucking in the latter 1980s" (I p. 11).

To ensure that shippers can obtain reasonable rates and level of service from connecting carriers, they should retain the right to apply for competitive connection rates for the movement of traffic on lines served by an infrastructure owner and one or more guest operators with traffic solicitation rights.

Saskatchewan's Planned Actions

Saskatchewan will continue to present the arguments to the federal government that to increase the effectiveness of running rights as a competitive provision in the CTA the reverse onus test must be included.

Topic: Rail Access Pricing

CTA Recommendations

Recommendation 5.17 (p. 81)
The Panel recommends that running rights compensation be negotiated between the parties. If the parties are unable to reach a commercial agreement in 90 days, either party could ask the Canadian Transportation Agency to set compensation in accordance with the Panel's rail access pricing proposals.

Recommendation 5.18 (p. 85)
The Panel recommends that, where traffic solicitation is sought, the rail access charge consist of

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[6] A similar "reverse onus" provision was contained in the NTA, 1987 as it applied to a railway customer opposing an application by a railway company to sell, lease or otherwise transfer a line of railway.

- **compensation for all incremental costs the guest railway imposes on the host; and**
- **a contribution to the common costs of rail ownership that approaches the implicit contribution the infrastructure owner is earning on the specific traffic being solicited.**

Recommendation 5.19 (p. 88)
The Panel recommends that the following considerations be used as a guide in determining compensation for track access without traffic solicitation rights:

- **access fees should cover all incremental costs the host incurs as a result of the guest railway's operations;**
- **access fees that differentiate among users on the basis of the value they place on rail access should be permitted;**
- **access fees based on differential pricing should not be allowed to help infrastructure owners generate more revenue than they need in total to cover costs, including a reasonable return on their investment; and**
- **access fees for government-owned or -directed passenger and commuter rail services should be limited to an amount that compensates infrastructure owners for the additional costs they incur, including congestion and delay costs, and provides a reasonable after-tax return on the book value of the capital assets used by the guest.**

CTA Analysis

The Panel has set out recommendations to determine an appropriate process for establishing running rights compensation. Where the parties are unable to agree on a commercial agreement in 90 days, the CTAgency has the authority to set compensation in accordance with the Panel's rail access proposals. The Panel describes "how" compensation is to be established for running rights including the compensation for all incremental costs the guest railway imposes on the host railway and an access charge component recognizing that the host requires a return on its investment in the rail network. The Agency would examine the various attributes of the guest railway including the intended traffic for solicitation. For the guest railway that is seeking running rights without solicitation, the compensation would include all incremental costs the host railway incurs as a result of the guest railway's operations as well as access fees that differentiate among users on the basis of the value they place on rail access.

Saskatchewan Recommendation

These issues were not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

Saskatchewan is not sure what the intent is of the Panel in introducing a prescription on rail pricing. Saskatchewan has indicated in the Phase I submission that the CTAgency would have the power to adjudicate the dispute, to balance the market power of the railways with those of the shipper. The Efficient Component Pricing Rule (ECPR) methodology is one option that may hold some interesting prospects.

Saskatchewan is opposed to having a pricing methodology that would ensure the lost opportunity costs that a host railway incurs. This approach would defeat the purpose of introducing competitive pricing and service options for shippers. As an example, a host railway that has charged a price of 60 percent over variable costs as a contribution margin should not be entitled to capture this contribution margin. The Panel's suggested formula does not take into consideration running rights as a pro-competitive remedy. The "opportunity" costs are inconsistent with competition.

Incremental costs that can be included in determining rail access charges should be defined; to ensure that access fees are reasonable.

Implications for Saskatchewan

Saskatchewan shippers are geographically captive to the railways. The review Panel's recommendations do not support pro-competitive measures.

Saskatchewan's Position

Because it is difficult to make a determination on running rights, this area requires further exploration to present access to a reasonable competitive solution. In the interim, Saskatchewan advocates that the CTAgency retain power to regulate a solution.

Saskatchewan's Planned Actions

Saskatchewan will prepare to work with the CTAgency to explore and develop a suitable access pricing methodology.

Topic: Internal and International Trade

CTA Recommendation

> **Recommendation 5.20** (p. 90)
> **The Panel recommends that the Minister of Transport ensure that implementation of the access proposals recommended in this report comply with all applicable requirements of international and internal trade law.**

CTA Analysis

The Panel has recommended that the compensation formula be fair and compensate an infrastructure owner adequately for use of its track. Thus it should not be vulnerable to a successful trade challenge on this ground.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

Saskatchewan recognizes the need to meet international trade obligations but also is of the opinion that domestic and regional transportation policy should be determined to meet the needs of the province and Canada.

Implications for Saskatchewan

Short line and regional railways should demonstrate interest in entertaining running rights applications.

Saskatchewan's Position

We would support the Panel's recommendation providing it does not adversely affect economic and social needs.

Saskatchewan's Planned Actions

Saskatchewan will continue to monitor federal government actions.

Topic: Railway Line Transfer and Discontinuance

CTA Recommendation

Recommendation 5.21 (p. 96)
The Panel recommends that railways be required to identify and publish a list of rail sidings in operation on their network and available for producer car loading. The Panel recommends further that railways be required to give 60 days' public notice before removing a siding from operation.

CTA Analysis

The Panel supports the premise that decisions about continuing to operate a line or selling it are business decisions best left to the owner or operator. The only condition is that the owner provides notice of such actions. The Panel also noted that a railway company should have the rights to line segmentation (decide which portion of track will be offered for sale) and to establish paper barriers (set contractual terms governing a sale or transaction).

Saskatchewan Recommendations

(II p. 17) **Options should be examined for encouraging investment by the major carriers or other parties in the branchline system to make it a more cost-effective component of the grain logistics system where sufficient volumes exist to make short line development viable.**

(II p. 25) **Define "railway line" as including a yard track, siding, spur, or other track auxiliary to a railway line.**

(II p. 26) **Update Schedule I of the *Canada Transportation Act.***

(II p. 26) **All railway assets should be subject to transfer when the purchaser indicates they are required for continued railway operations.**

(II p. 26) **Upon designating a railway line as a line to be discontinued, the line shall be listed for discontinuance for at least 12 months and a transfer process may be initiated on any line listed for discontinuance at any time during this period at the initiative of any person interested in acquiring the line for continued railway operations.**

(II p. 27) **Permit greater flexibility for participation by interested persons in the sale/transfer of rail lines.**

(II p. 28) **Grant the Canadian Transportation Agency jurisdiction to review Class I railways' proposals to transfer lines to ensure that the proposed transfer promotes the continuation of railway service in a manner consistent with the intent of the *Canada Transportation Act.***

(II p. 28) **Extend the remedy of bad faith operations by a railway company so that it is available to governments.**

Saskatchewan Analysis

The Review Panel's failure to provide against paper barriers and segmentation is a grave oversight and has led to flawed recommendation. Saskatchewan presented concerns regarding rail line transfer and discontinuance provisions of the *Canada Transportation Act* in its March 30, 2001 submission to the Review Panel. The Panel has recognized that abandonment of rail sidings is a major concern of producers, which reduces opportunities for producer car loading and short line development. However, the recommendation that a list of rail sidings available for producer car loading be published, and that the railways be required to give 60 days public notice before removing a siding from operation would not resolve this problem.

The Review Panel's recommendations on segmentation would facilitate commercial arrangements for branchline rationalization. Producers and shippers may continue to have access to rail service through provision for running rights on these lines.

Saskatchewan opposes the recommendation that the CTAgency be granted the authority to review Class I railways' proposals to transfer lines. This could enable the major railways to seek concessions from the Agency under the branchline discontinuance and transfer process.

The Review Panel's recommendations on segmentation would facilitate commercial arrangements for branchline rationalization. Saskatchewan has opposed segmentation of branchlines by the railways, because this has been used to prevent the establishment of viable short line operations. Saskatchewan will consider options that promote a more commercial branchline discontinuance and transfer process, provided that:

a) Shippers obtain improved competitive access through provisions such as enhanced running rights. The negative impacts of segmentation must be offset by providing producers and shippers with access to rail service through provision for running rights on these branchlines.

b) Any municipality affected by branchline segmentation must have an opportunity to acquire the line at net salvage value under the branchline discontinuance and transfer process.

Implications for Saskatchewan

The Review Panel's recommendations are prepared to provide increased scope for provincial short line operations to address matters not included in the Act. Saskatchewan supports this approach in principle. However, Saskatchewan believes the establishment of joint boards could play an important role in enabling federal and provincial railways to resolve rate and service disputes. This could include:

a) provision for setting through rates from point of origin on provincial short line railways to destination; and

b) provision for the required level of service to be specified by the shipper. If service requirements are not satisfied, provision could be made for shippers to apply for Final Offer Arbitration.

Saskatchewan's Position

A formal process for discontinuance of rail sidings should be established, similar to the branchline transfer provisions under the Act, to enable producers or other interested parties to enter into transfer negotiations with the railways to acquire sidings before they are abandoned. The definition of a railway line in Section 140 should be expanded to include sidings, to enable the branchline transfer provisions of the Act or similar provisions to be applied to establish a transfer process for sidings.

The Appendix of grain-dependent branchlines in the *Canada Transportation Act* should be updated to reflect the current status of rail lines, to ensure that changes in product mix and traffic flows are considered when determining whether compensation should be provided to affected communities when a rail line is abandoned.

Saskatchewan will consider options that promote a more commercial branchline discontinuance and transfer process, provided that shippers obtain improved competitive access through provisions such as enhanced running rights, and municipalities affected by segmentation have an opportunity to acquire the lines at net salvage value under the branchline discontinuance and transfer process.

Saskatchewan's Planned Actions

Saskatchewan will present its position to change the branchline abandonment and transfer provisions to federal cabinet ministers

In addition, the province will continue to inform MPs and the public of the implications of these recommendations.

General Issues–Not Addressed in the CTA by Specific Recommendation

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Topic: General Issues

Saskatchewan Recommendations

(II p. 30) **While recognizing constitutional principles that may arise, the federal and provincial governments need to identify and coordinate their laws and policies to bring greater clarity as to when railways and their lands are subject to federal or provincial regulation.**

(II p. 30) **Permit the Canadian Transportation Agency to hold joint hearings with a provincial board to resolve connection issues and other matters affecting the relationship between federal-provincial railways.**

(II p. 32) **Rail bankruptcy provisions need to be reviewed for relevance.**

(II p. 32) **The "public interest" test should be reintroduced to assist captive rail shippers.**

Topic: Rail Competition

CTA Analysis

In the description of competition (p. 56), the Panel indicated that Canada's rail system is not inherently anti-competitive; nor is marketing abuse systematic or widespread. This assumption has endorsed the conclusion that sweeping measures are not required to raise the level of competition. Based on revenue per tonne miles (RTMs) the market is working fine and that once deregulated grain rates would also fall. Where market forces are inadequate, in those situations, appropriate recourse is necessary to protect shippers against potential abuse of market dominance by a carrier.

In many de-regulated industries with high fixed or sunk costs, relaxation of entry restrictions has resulted in increased innovation, rate reductions and major industrial restructuring. But United States–style rail deregulation did not facilitate large-scale entry. Rates for many commodities are increasing, and industry concentration is a major concern. In Canada, we have a chance to promote deregulation in the rail industry, and avoid the compromise settled upon by the Americans. True deregulation for the rail industry will result through changes in how the source of rail market power (the track) is handled by the Agency.

Competitive access provisions would permit any rail operator (including new entrants) to negotiate track usage rights with the owner of the track in exchange for some form of payment. Access negotiations would be guided by a transparent legal or regulatory framework so that decisions on access disputes would be fair and timely for both parties. Producers/shippers would not be the only beneficiaries of competitive access. New entry by railways would provide many benefits to the industry; on-track rail competition will provide the impetus necessary to increase efficiency and seek innovative solutions to service provision requirements in this industry both in the present and the foreseeable future. Other benefits for the Class I railways include the ability to profit from a lease market for locomotives and freight cars with new entry by railway companies who may not be willing or able to purchase their own equipment.

Saskatchewan does not believe that short lines are able to offer a fully competitive alternative to full service class one carriers. Thus they will never constitute the type of competition necessary to maintain accountability among the Class I railways. For new railways, only actual access to the same services the Class I's provide (i.e. the entire network) will ensure that the rail services are provided in a competitive and accountable market.

Saskatchewan Recommendation

(I p. 8) **Commence a three to five year transition period to move the current rail system towards a full open access regime.**

Saskatchewan Analysis

Rail competition is key to the review. Saskatchewan advocates for a transition towards open access in its Phase I submission as being Saskatchewan's preferred mechanism to achieve rail competition. Saskatchewan is recommending reciprocal open access where short line and regional railway operators would be able to access the infrastructure of the federal carriers and vice versa.

Implications for Saskatchewan

Consolidation of the railway system and a reduction in service provided by the Class I carriers.

Saskatchewan's Position

Rail competition is a key component in ensuring the transport of Canadian commodities to world markets. Saskatchewan is promoting a balance between the needs of consumers, shippers and the rail sector that will ensure economic growth in Canada. The pro-competitive changes are required to increase rail competition. The provinces recommendations also focus on protecting the public interest in a cost effective, competitive and efficient rail sector through improved access by interested parties to rail infrastructure and to dispute resolution mechanisms already available in the CTA.

Saskatchewan's Planned Action

Continue to communicate the provincial position to various governments including the federal government.

Topic: Differential Pricing

Discussion on Pricing Practices (p. 59)
"There remains a serious divergence of perspective between shippers and railways on the matter of differential pricing. Some shippers - bulk commodity produces for the most part – see differential pricing as unfair and an abuse of market power. Railways see differential pricing as unfair and an abuse of market power. Railways see differential pricing a legitimate and essential to the long-term survival of their operations. Moreover, the railways believe differential pricing should be unfettered.

The Panel believes both are extreme views, not conducive to setting policies that will foster an efficient, effective and competitive rail system. The Panel rejects assertions that differential pricing should be unfettered. There are compelling economic and public interest arguments for putting some limits on its use or mitigating its more extreme effects. Similarly, the Panel rejects the argument that the existence of differential pricing is, in and of itself, evidence of a lack of competition. For a self-financing, unsubsidized network-type industry where non-allocable constant costs must be covered if firms are to survive, differential pricing improves efficiency. The only substitute would be a return to cumbersome rate regulation and possible heavy subsidies; these are notions Canada abandoned 30 years ago, and no one advocates their return.

Treatment of the issue surrounding differential pricing mirrors the Panel's approach to rail access generally. The recommendations are intended to foster a regulatory regime that identifies specific instances of potential market abuse or anti-competitive behavior and provides a focused and appropriate remedies."

CTA Analysis – Price Discrimination or Differential Pricing

While the issue of price differentials or discrimination in rail has been around a long time, the discussion has become more pronounced in Canada since the inception of the rate cap for grain movement. Under the rate cap, extensive price discrimination by the railways was not possible. During the Estey/Kroeger reviews, Canadian railways maintained that their need to distribute the compensation burden of high fixed rail costs over a variety of movements requires a policy of rate discrimination based upon demand elasticity. Railways wanted the freedom to set their own rates to particular shippers.

Railways will price discriminate where they can. In this situation, the most economically efficient solution (i.e. maximizing economic welfare), is for the railway to price transportation according to willingness to pay, and this is equivalent to pricing according to demand elasticity. Note that willingness to pay does not translate into ability to pay, a point that is at the root of pricing problems in many high fixed cost industries. To illustrate this by way of counterexample, revenue management in the form of differential pricing is practiced by airlines in the same manner for the same reasons. But in the case of airlines, the customer/firm incentives align correctly; airlines charge more to business customers who, in turn, are willing and can afford to pay more for that seat. In the case of rail, those customers who are most often charged higher freight rates are exactly those shippers of low-value bulk commodities who have difficulty remaining profitable when they must pay higher differential shipping rates.

Saskatchewan's Position

Saskatchewan agrees that there must be a balance between a carrier's interest and a shipper's interest. However, resource shippers should not cross subsidize other shippers. A shipper in a competitive market should be paying rates that would reflect the costs incurred to provide the service. A special service by a customer may require that a voluntary premium be offered by the shipper to a railway to move its shipment.

Chapter 6 – The Merger Review Process

Topic: Mergers

CTA Recommendations

Recommendation 6.1 (p. 110)
The Panel recommends the establishment of a new process for reviewing proposed transportation mergers, either within modes or cross-modally, to examine issues of broad national or transnational interest separately from competition issues considered under the merger review provisions of the *Competition Act*.

Recommendation 6.2 (p. 110)
The existing *Competition Act* process should continue to be used to evaluate whether a proposed merger in the transportation sector would prevent or lessen competition.

Recommendation 6.3 (p. 110)
The proposed public interest review process would have the following steps:

1. **Parties notify the Minister of Transport of the proposed merger at the same time notice is served to the Commissioner of Competition.**
2. **The notice to the Minister includes a statement of public interest impact, including**
   - **the objectives of the merger;**
   - **the impact of the merger on the transportation sector concerned and on the industry sectors it serves;**
   - **possible costs and benefits to shippers or passengers;**
   - **implications with respect to network rationalization and the labour force;**
   - **the regional impact of the merger;**
   - **the impact of the proposed merger on the overall structure of the transportation sector concerned; and**
   - **remedial or mitigating actions proposed by the merging parties to address public interest concerns.**
3. **If the Minister concludes there are significant public interest issues related to the proposed merger, he/she would appoint a public interest evaluator to evaluate the proposed merger.**
4. **The public interest evaluator evaluates public interest issues identified by the Minister, based on the statement of public interest impact provided by the parties to the proposed merger, and can hold hearings to receive input on public interest issues.**

5. **Parties to a merger may amend the statement of public interest impact in response to concerns expressed by the public interest evaluator on public interest issues.**
6. **The public interest evaluator interacts with the Competition Bureau to discuss and co-ordinate their respective investigations.**
7. **At the conclusion of the evaluation, the public interest evaluator reports to the Minister, recommending, with respect to public interest issues, that the proposed merger**
   - **be allowed to proceed;**
   - **be allowed to proceed, subject to specified conditions; or**
   - **not be allowed to proceed.**
8. **After receiving the report of the public interest evaluator, the Minister reviews it and makes a recommendation to the Governor in Council.**
9. **Approval should be subject to any conditions the Governor in Council considers relevant to protect the public interest.**
10. **Where the Governor in Council approves a merger subject to the parties to the merger meeting conditions to protect the public interest, a process to ensure compliance through monitoring and enforcement must be put in place.**
11. **The Competition Bureau and the public interest evaluator should be encouraged to work closely with the appropriate authorities in other countries when considering transnational mergers.**

Recommendation 6.4 (p. 112)
The Panel recommends that the proposed merger review process apply to all transportation modes under federal jurisdiction.

CTA Analysis

The Panel has recommended the establishment of a new process that includes the existing *Competition Act*. The main features include the appointment of a public interest evaluator that would be appointed by the Minister of Transport. If the Minister concludes there are significant public interest issues related to the proposed merger, he/she would appoint a public interest evaluator to evaluate the proposed merger. The public interest evaluator evaluates public interest issues identified by the Minister, based on the statement of public interest impact provided by the parties to the proposed merger, and can hold hearings to receive input on public interest issues. A report with recommendations is prepared for the Minister. After receiving the report of the public interest evaluator, the Minister reviews it and makes a recommendation to the Governor in Council.

Saskatchewan Recommendation

(II p. 30) **Both the Competition Bureau and the Canadian Transportation Agency should be responsible for rail merger issues and the Canadian Transportation Agency should ensure that proposed mergers meet a "public interest" test.**

Saskatchewan Analysis

Saskatchewan is concerned that the CTAgency did not have the authority to review the announced merger of Canadian National (CN) and Burlington Northern Santa Fe (BNSF). The Canadian government left the perception that the United States Surface Transportation Board (STB) was to review and determine the outcome on the merger application. Canada did not initiate its own process that would place Canadian transportation policy interests at the forefront of the merger review. The defunct merger between CN and BNSF, announced in December of 1999, will likely be followed by other merger announcements amongst major North American railways.

Saskatchewan recommends that regulatory authority over rail mergers be clearly defined and that a process be established that includes a public hearing where provincial governments and stakeholders would be heard to ensure mergers are in the "public interest". The following criteria should be used to evaluate any merger proposals:

- the merging railways should be required to demonstrate to the CTAgency that the merger is in the "public interest". The merging companies should be required to prove to the CTAgency that their union would provide greater logistical and economic efficiency and that competition will be enhanced. Merger policy should also include the effects on competition, impacts on service, and downstream effects of the mergers – both in other markets and for the future structure of the industry;

- the Competition Bureau should be responsible for reviewing any merger proposals from a competition perspective; and

- for international mergers, there should be a full exchange of information and uninterrupted co-operation between Canadian and American (and potentially Mexican) government regulators in approving and attaching any conditions to proposed mergers.

<u>Implications for Saskatchewan</u>

Saskatchewan would have diminished influence over any mergers and acquisitions that may take place in the rail sector.

Saskatchewan's Position

Saskatchewan's position still remains that the CTAgency increase its authority to have jurisdiction of mergers and acquisitions, as was the case in the NTA, 1987. This would allow for direct input by shippers and maintain control over Canadian merger activity.

Saskatchewan's Planned Actions

Saskatchewan will present the case to the Federal Minister of Transport.

Chapter 7 – The Airline Industry

Topic: Pursuing the Benefits of Foreign Competition

CTA Recommendation

Recommendation 7.1 (p. 123-124)
The Panel recommends that the government enter into negotiations with the United States and Mexico to create a North American Common Aviation Area in which carriers from Canada, the U.S. and Mexico would compete freely. As a back-up option if negotiations do not succeed, the Panel recommends that the government negotiate with other countries for the reciprocal granting of modified sixth freedom rights and of rights of establishment for foreign-owned domestic carriers.

CTA Analysis

The Panel recommendation is to increase competition in the air sector through "the stimulus and discipline of foreign competition" (p. 122).

Saskatchewan Recommendations

(II p. 41) **The federal government should begin negotiations as soon as possible with the United States for the implementation of the modified sixth freedom rights between the two countries to allow the sale, marketing or display of sixth freedom traffic on a single ticket basis. Furthermore, given the dominant carrier situation in Canada, the federal government should negotiate modified sixth freedom on a non-reciprocal basis, if necessary.**

(II p. 42) **The federal government should undertake a feasibility study to determine the potential impacts of the relaxation of cabotage rules in consultation with major stakeholders, including the Provinces as its constitutional partners. Furthermore, the federal government should consult these major stakeholders before concluding any cabotage agreement with the United States.**

(II p. 43) **Transport Canada should examine the feasibility of extending the "Open Skies Agreement" to air courier and air cargo movement with no co-terminalization restrictions.**

Saskatchewan Analysis

The creation of the North American Common Aviation Area (NACAA) is not likely in the short term. Transport Canada is not expected to do much in the airline sector until Air Canada has completed its restructuring by the end of 2002. The United States, under the former Clinton Administration, had been looking at the idea of regional bilateral air agreements, though this was more on the line of the Canada/United States "Open Skies Agreement" as opposed to full open access to domestic markets.

Although a NACAA could mean more competition and choice for Canadian consumers in the larger urban centres for cross-border North American City pairs, the prospects are diminishing in the longer term, as the United States, like Canada, is protective of its domestic market. New entrants would be as interested in Canada's domestic routes (cabotage). Having said this, the recommendation by the Panel for a NACAA is new and should be examined in greater detail by all stakeholders.

In the case of a modified sixth freedom, there would be benefit for Saskatchewan travellers accessing other Canadian points via Minneapolis. There is less benefit for American residents accessing other United States points through Canada, with the possible exception of Alaska.

Saskatchewan's Position

Saskatchewan opposes this recommendation. Although Saskatchewan supports increased international air service between city pairs, it does not support the entry of foreign carriers in domestic service at this time. In our submission to the Review Panel, Saskatchewan recommended that the federal government undertake a feasibility study to determine the potential impacts of the relaxation of cabotage rules in consultation with major stakeholders. Saskatchewan would now suggest that this feasibility include looking at NACAA.

Saskatchewan continues to support the immediate introduction of a modified sixth freedom that would give residents access to Toronto and eastern Canada via Minneapolis on a single ticket basis.

Saskatchewan as well continues to support Transport Canada examining the feasibility of extending the "Open Skies Agreement" to air courier and air cargo movement with no co-terminalization restrictions in its Phase II submission p. 43.

Saskatchewan's Planned Actions

As part of its response to the CTA recommendations, Saskatchewan will advise the Federal Minister that it does not favour entry of foreign airlines in domestic service at this time.

Topic: Promoting Multilateral Reforms

CTA Recommendation

Recommendation 7.2 (p. 124)
The Panel encourages the government to pursue actively Canada's interest in a more liberal international environment for air services.

CTA Analysis

The rationale of the recommendation is to promote greater liberalization of international air services bilaterally as well as multilaterally.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

Transport Canada is in the process of developing a new international air policy that would emphasize the interest of users and communities rather than the traditional policy of supporting the interest of the airlines. The draft of the new policy is expected in fall for discussion among stakeholders. We are likely to see implementation of the new policy by the summer of 2002. We do not know if the new policy would liberalize the co-terminalization provisions for air cargo/courier. Our airport authorities support liberalization of co-terminalization but TransWest does not support any further liberalization of any kind.

The focus of liberalization in international air services is between international city pairs, so the impact on domestic service would be very slight. Liberalization is likely to increase the supply of carriers serving international destinations on a scheduled basis.

Saskatchewan's Position

Saskatchewan supports the liberalization of international air services either bilaterally or multilaterally, as long as such liberalization does not extend to domestic air service.

Saskatchewan's Planned Actions

Saskatchewan will review and respond to the draft for a new federal policy on international air services expected in the fall.

Topic: Relaxing Airline Ownership Restrictions

CTA Recommendation

Recommendation 7.3 (p. 125)
The Panel recommends that the limit on the voting shares of Canadian airlines that can be held by foreigners be raised to 49%.

CTA Analysis

The Panel's rationale for the recommendation is to increase access of our airlines to foreign funds.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

Saskatchewan views the current foreign ownership limit of 25% as adequate. We have no evidence that the limit creates a problem for airlines.

Saskatchewan's Position

Saskatchewan has no evidence that a change to the ownership provisions of Canadian carriers would have any impact on increasing air service and/or competition to Saskatchewan.

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Topic: Eliminating Potential Barriers to Entry

CTA Recommendation

Recommendation 7.4 (p. 126)
The Panel recommends that carriers be given recourse to the Canadian Transportation Agency for disputes over access to airport facilities and that the Agency be given power to provide an appropriate remedy in situations where airlines are found to be subject to unfair treatment in terms of prices charged or type and quality of service provided.

CTA Analysis

The main rationale for the recommendation is to ensure that airport access does not impede market entry. The recommendation is also intended to provide the airlines with a mechanism for investigating and resolving complaints, when the parties cannot resolve the complaints themselves.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

In the long-term, the CTA Panel would like to see the airports as owners of the gates and slots so that they may be treated as common services. This change would help to reduce barriers especially for new entrants providing international service. The recommendation, however, does not address making slots and gates common use facilities. The recommendation as proposed by the Panel may result in an unnecessary regulatory burden to airport authorities and air carriers. Some of these facilities are already experiencing financial difficulty. While we appreciate the concern that the Panel is addressing, these kinds of issues should be addressed in dispute resolution provisions and/or in the governance provisions of the airport authorities. The federal government may look at the Panel recommendation favourably. There are indications that Transport Canada, through the development of the *Canada Airports Act*, may be looking to take back a greater interest and control of airport authorities.

Saskatchewan's Position

Saskatchewan does not support this recommendation. It is Saskatchewan's view that these issues should be addressed in the governance provisions of Airport Authorities. This is an issue that should be reviewed in greater detail as part of the federal governments development of a new *Canada Airports Act.*

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Topic: Eliminating Potential Barriers to Entry

CTA Recommendation

> **Recommendation 7.5** (p. 126)
> **The Panel recommends that the maximum annual domestic passenger revenues used to determine eligibility for access to Air Canada's frequent flyer program be raised to $500 million. The Panel recommends further that the requirement to provide access to Aeroplan be extended until the Minister of Transport determines that competition in the domestic market has strengthened to the point where it is no longer necessary.**

CTA Analysis

The rationale for the recommendation is to increase the access of passengers on the smaller carriers (less than $500 million per year) to Aeroplan, and extend the timeline. Currently only carriers with revenues of less than $250 million per year can access the program, and can only do so to 2005.

Saskatchewan Recommendation

> **This issue was not addressed in Saskatchewan's submissions.**

Saskatchewan Analysis

The recommendation will benefit Saskatchewan air travellers using carriers other than Air Canada.

Saskatchewan's Position

Saskatchewan supports the recommendation.

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Topic: Removing Fare Regulation

CTA Recommendation

Recommendation 7.6 (p. 128)
The Panel recommends that the *Canada Transportation Act* be amended to remove the Canadian Transportation Agency's powers to review passenger and cargo fares on monopoly routes upon complaints; to order additional fare classes on monopoly routes if these are available on similar competitive routes; and to audit carriers proactively and take appropriate action.

CTA Analysis

The rationale for the recommendation is to reduce what the Panel regards as too burdensome, too costly and slow a CTA process that impedes Air Canada's implementation of an efficient yield management system. Furthermore, the process does not give consumers effective protection. The Panel advises that requiring the airline to provide better information, such as the percentage of seats sold in various markets by major fare classes, will be superior to the present provision.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The benefit of this recommendation is not clear. It would seem that leaving it unchanged would give the CTA more power to encourage transport policies on monopoly routes.

Saskatchewan's Position

Saskatchewan does not support the recommendation.

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Topic: Preparing for Service Termination

CTA Recommendation

Recommendation 7.7 (p. 129)
The Panel recommends that the government require Air Canada to provide 180 days' notice of services it plans to terminate in the first six months of 2003.

CTA Analysis

As one condition of restructuring, Transport Canada required Air Canada to continue to provide services to small communities formerly served by Canadian Airlines and its subsidiaries until January 4, 2003, and to provide the communities with 120 days notice of services it plans to terminate on January 4, 2003. The Panel felt this was too short a notice, hence the 180 days recommendation.

Saskatchewan Recommendations

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The recommendation does not affect Saskatchewan, as we do not have Air Canada subsidiaries providing feeder services to our main airports. The recommendation will benefit other jurisdictions with Air Canada service to small communities.

Saskatchewan's Position

Saskatchewan supports the recommendation.

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Chapter 8 – Marine Transport

Topic: Marine Services

CTA Recommendations

Recommendation 8.1 (p. 145)
The Panel recommends that full recovery of the costs of marine services attributable to users be pursued as a long-term goal.

Recommendation 8.2 (p. 145)
The Panel recommends that opportunities to commercialize marine services be sought.

Recommendation 8.3 (p. 146)
The Panel recommends that the government make clear its commitment to eventual elimination of the liner conference exemptions from competition law and that it actively pursue multilateral agreement among international partners to do so.

Recommendation 8.4 (p. 146)
The Panel recommends that the government make clear to the government of the United States its preference for eliminating the restrictions on entry to domestic shipping in the *Coasting Trade Act* and offer to negotiate bilateral elimination of equivalent restrictions.

Recommendation 8.5 (p. 147)
The Panel recommends that the 25% duty on vessels built or purchased outside Canada be eliminated.

CTA Analysis

Efficiency and equity can be achieved most effectively when users pay the full cost of services provided to them by government. The continuing subsidies for marine services are not consistent with the principles of cost recovery from users and equal treatment of modes. Commercialization of the air navigation system has demonstrated that full cost recovery from users of the transportation system can be implemented to improve performance and efficiency, without adversely affecting their financial health.

Elimination of artificial barriers to competition such as the *Shipping Conferences Exemption Act* and the *Coasting Trade Act* should be pursued over the medium to long-term, to promote cost-efficiency among carriers, and benefit users through lower prices and improved service. Bilateral initiatives with the United States to remove impediments to competition in marine transportation are essential, to maintain a level playing field for Canadian carriers, shippers, and producers with their United States counterparts.

Saskatchewan Recommendations

These issues were not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

Implications for Saskatchewan

Transport costs of Saskatchewan bulk commodity exports and other products could increase modestly due to increased costs of marine services, if the federal government implements the Review Panel's proposals for full cost recovery for aids to navigation.

Saskatchewan's Position

Saskatchewan supports the principle of recovering costs for marine services from users. Services that are needed by shippers and other users should be identified. Any changes in cost recovery practices for the marine industry should be phased in, to minimize adverse competitive impacts.

The cost of marine services such as the Canadian Coast Guard and other aids to navigation should be reduced through efficiency improvements and the introduction of new technologies, before any federal initiatives to implement full cost recovery are implemented. All marine services, including pilotage, should be included in this process.

Saskatchewan's Planned Actions

Federal proposals for cost recovery of marine services will be reviewed to determine cost implications for Saskatchewan shippers and other users, following the completion of the federal Treasury Board Secretariat's review of cost recovery policy in fall, 2001. An appropriate provincial strategy will be developed to respond to the federal proposals.

Chapter 9 – Governance of Infrastructure Providers

Topic: Charges to Airlines

CTA Recommendation

Recommendation 9.1 (p. 164)
The Panel recommends that principles be developed to govern the setting of airport fees for aeronautical services; that airports be required to provide adequate notice of their intention to revise charges to airlines; and that, in the case of disputes over adherence to the principles or process, there be a right of complaint to the Canadian Transportation Agency.

CTA Analysis

The intent of the recommendation is to guard against arbitrary pricing actions on the part of airport authorities because of their near-monopoly status, and to provide an appeal avenue for both airlines and passengers (airport improvement fees) with respect to charges.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

There is need for a safeguard to ensure airport authorities do not charge prices beyond those required to meet their operating and capital needs, as they are not-for-profit entities. Over the long-term the recommendation will encourage airport authorities to have a more common and more transparent pricing regime for their services. In our view these issues can be adequately addressed in the governance provisions of the Airport Authorities, including development dispute resolution provisions, without the requirement of a review process to the CTA

Saskatchewan's Position

Saskatchewan has a neutral position on this recommendation. The province is of the opinion that these issues can be addressed in the governance and dispute resolution provision of the Airport Authorities.

Saskatchewan's Planned Actions

Saskatchewan will explore this further when it reviews the proposed draft *Canada Airports Act.*

Topic: Non-Aeronautical Services

CTA Recommendation

Recommendation 9.2 (p. 165)
The Panel recommends that

- **a for-profit subsidiary of an airport authority be allowed to provide a service to the airport only if it is the successful bidder in a fair and open competitive tendering process;**
- **if an airport authority in its own right (rather than through a subsidiary) undertakes activities that compete with commercial firms, it be required to demonstrate that the decision is in the airport's financial interest; and**
- **airport land use regulations be required to adhere to basic rules of fairness and equity, including the requirement that affected parties be adequately notified and consulted about proposed changes in airport policy.**

CTA Analysis

These recommendations are in response to concerns that some airport authorities are setting up for-profit subsidiaries that may compete unfairly with other commercial businesses that wish to serve airport authorities or offer services on airport lands.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The recommendation seeks to place for-profit subsidiaries of airport authorities on the same arm's length relationship between airport authorities and other commercial businesses. Our airport authorities do not currently have for profit subsidiaries that compete with businesses providing service to airport authorities.

Saskatchewan's Position

Saskatchewan's present position is neutral. Saskatchewan supports the concepts but needs to consult with its airport authorities.

Saskatchewan's Planned Actions

Saskatchewan will explore this further when it reviews the proposed draft *Canada Airports Act.*

Topic: Legislation to Enhance Accountability

CTA Recommendation

Recommendation 9.3 (p. 165)
The Panel recommends that legislation be introduced specifying governance requirements for LAAs and CAAs and indicating the penalties that can be imposed in cases of non-compliance.

CTA Analysis

The rationale is to establish a more common regime for airport authority governance. Some airport authorities like Vancouver, Calgary, Edmonton and Montreal were set up prior to the 1994 National Airport Policy. The airport authorities set up after 1994 were done on a more consistent basis than the early ones partly because Transport Canada had little or no experience with airport authorities when the first ones were set up.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The recommendation would help to correct anomalies and make for greater consistency in terms of treatment and relationship with Transport Canada.

It should be noted that Transport Canada is currently drafting a new *Canada Airports Act* to establish charging principles for airport authorities, provide a consistent regime for the governance of airport authorities and encourage greater transparency. Transport Canada has advised that it will be sending out the draft to stakeholders as part of its consultation process in the fall.

Saskatchewan's Position

Saskatchewan supports the recommendation.

Saskatchewan's Planned Actions

Saskatchewan awaits the Transport Canada draft policy for the *Canada Airports Act*. Saskatchewan will advise Transport Canada of its position after it reviews the draft and consults our airport authorities.

Topic: Subsidiaries

CTA Recommendation

Recommendation 9.4 (p. 166)
The Panel recommends that well defined limits be placed on airport authorities' use of for-profit subsidiaries.

CTA Analysis

This recommendation is in response to a concern to avoid airport authorities getting side-tracked into activities that are not part of their core business through their for-profit subsidiaries.

In the long-term the recommendation will ensure airport authorities can benefit other airport sectors through their expertise and their experience, but without compromising or risking their core business.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The recommendation will allow airport authorities to benefit other airport sectors through their expertise and experience, but without compromising or risking their core business. The recommendation does not currently affect our airport authorities, as they have not established for-profit subsidiaries.

Saskatchewan's Position

Saskatchewan's position is neutral. Saskatchewan agrees with the principle but has reservations about Transport Canada's role in developing guidelines for airport authorities in the post-transfer period.

Saskatchewan's Planned Actions

Saskatchewan will address this issue when it reviews the proposed draft *Canada Airports Act*.

Topic: Subsidiaries

CTA Recommendation

Recommendation 9.5 (p. 167)
The Panel recommends that the airport authorities' legislated exemption from the *Income Tax Act* be removed.

CTA Analysis

This rationale for the recommendation is to place airport authorities on the same footing as other not-for-profit federal entities such as NAV Canada and the Canada Port Authorities that are exempted from this requirement.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The recommendation is more of a house-keeping item that would help to reduce the administrative burden of satisfying Revenue Canada that airport authorities are in fact engaged in not-for-profit activities.

Saskatchewan's Position

Saskatchewan is neutral with regard to this recommendation. Saskatchewan has reservations about Transport Canada's role in developing guidelines for airport authorities in the post-transfer period. This is an area requiring more study.

Saskatchewan's Planned Actions

Saskatchewan will address this issue when it reviews the proposed draft *Canada Airports Act*.

Topic: Reporting Requirements

CTA Recommendation

Recommendation 9.6 (p. 167)
The Panel recommends that airports be required to put in place comprehensive performance measurement systems that adhere to guidelines developed by Transport Canada. For major proposed capital projects, airports should be required to undertake an economic assessment, consult with airport users, and ensure that stakeholders' positions are made known to interested parties.

CTA Analysis

The Panel sees the need for better information on airport performance.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

Saskatchewan deems it a good business practice to establish performance measures and systems to determine how well business are achieving their objectives.

Saskatchewan is concerned that in advocating Transport Canada developing guidelines for performance measures for airport authorities, Transport Canada would use the guidelines for establishing a new level of regulation for airports that tilts the balance in favour of the landlord over the lessee.

Saskatchewan's Position

Saskatchewan is opposed to this recommendation. The province agrees with the principle of performance measures, but has reservations about Transport Canada's role in developing guidelines for airport authorities in the post-transfer period.

Saskatchewan's Planned Actions

Saskatchewan will determine its position on this recommendation when it reviews the proposed draft *Canada Airports Act*.

Topic: Federal Regulations

CTA Recommendation

Recommendation 9.7 (p. 168)
The Panel recommends that Transport Canada review its proposed Aircraft Emergency Intervention Services regulations to determine whether the standards are appropriate based on a careful assessment of costs and benefits.

CTA Analysis

The recommendation would encourage Transport Canada to carefully examine regulatory proposals to ensure that they are justifiable in terms of adequate risk assessment and cost-benefit analysis before they are imposed.

Saskatchewan Recommendation

(II p. 14) **Transport Canada should ensure that any new or amended regulations or legislation it wishes to implement are subject to thorough analysis and consultations with stakeholders, including the Provinces as its constitutional partners, and that Transport Canada should provide financial assistance to cover incremental costs for implementing such regulations or legislation.**

Saskatchewan Analysis

The CTA recommendation is almost identical to the Saskatchewan recommendation. Either recommendation would help to reduce regulatory creep. When Transport Canada owned and operated the airports, there was a natural check against regulatory creep, as Transport Canada airport operators could readily challenge their regulators on matters affecting their own airports. This check is now gone as Transport Canada no longer owns airports (except for the leased NAS airports) and no longer operates airports.

Saskatchewan's Position

Saskatchewan supports the recommendation. Saskatchewan would also add the amendment to include "Transport Canada should provide financial assistance to cover incremental costs for implementing such regulations or legislation".

Saskatchewan's Planned Actions

Saskatchewan will pursue this further in subsequent reviews of the Airport Capital Improvement Program.

Topic: Assistance Program for Smaller Airports

CTA Recommendation

Recommendation 9.8 (p. 169)
The Panel recommends that a limited program of support be introduced to help smaller airports (regional/local and small NAS airports) cover their operating expenditures. The program should be financed from air system revenues and be designed to encourage improved efficiency and create incentives for airport rationalization.

CTA Analysis

The rationale for the recommendation is to assist smaller airports to meet their annual operating expenditures, using part of the rental payments from the larger NAS airports. This recommendation does not address capital requirements.

Saskatchewan Recommendation

(II p. 15) **The Airport Capital Assistance Program's eligibility criteria and funding should be reviewed.**

Saskatchewan Analysis

Although Saskatchewan welcomes assistance for operating expenses for smaller airports (regional/local and smaller NAS airports), Saskatchewan sees a greater need for capital assistance, especially for airports that do not receive schedule passenger services. For this reason Saskatchewan has been advocating the extension of the federal ACAP to help to meet capital needs of smaller airports that in particular receive regularly scheduled charter service (e.g., flights between northern communities and mine sites). The Panel recommendation does recognize that there is a problem with the viability of smaller airports in Canada. This is also the subject of a proposed inter-jurisdictional study that Saskatchewan is participating in.

Saskatchewan's Position

Saskatchewan supports the intent of the Panel's recommendation and the assumptions on which it is based.

Saskatchewan's Planned Actions

Saskatchewan, along with a number of other jurisdictions, is proposing to examine this issue further as part of an inter-jurisdictional study on the viability of small airports.

Topic: Ports

CTA Recommendations

Recommendation 9.9 (p. 170)
The Panel recommends that the provisions of the *Canada Marine Act* making the Crown responsible for liabilities of Canada Port Authorities be removed.

Recommendation 9.10 (p. 170)
The Panel recommends that borrowing limits in the letters patent of Canada Port Authorities be removed.

Recommendation 9.11 (p. 170)
The Panel recommends that the number of directors on Canada Port Authority boards appointed directly by the Minister of Transport be reduced to two.

Recommendation 9.12 (p. 171)
The Panel recommends that well defined limits be placed on Canada Port Authorities' use of for-profit subsidiaries.

Recommendation 9.13 (p. 171)
The Panel recommends that

- **a for-profit Canada Port Authority subsidiary be allowed to provide a service to the port only if it is the successful bidder in a fair and open competitive tendering process; and**
- **if a port in its own right (rather than through a subsidiary) undertakes activities that compete with commercial firms, it be required to demonstrate that the decision is in the port's financial interest.**

Recommendation 9.14 (p. 171)
The Panel recommends that Canada Port Authorities be required to develop comprehensive performance measurement systems and to make the resulting information publicly available.

Recommendation 9.15 (p. 172)
The Panel recommends that a review of the *Canada Marine Act* be initiated by the beginning of 2002.

CTA Analysis

The *Canada Marine Act* provided a framework for increasing local control of port management and infrastructure funding through the establishment of a more commercial environment, and increased accountability through improved governance structures for Port Authorities. Concerns have been expressed by some stakeholders that the new federal marine legislation did not go far enough to enable ports to expand volumes and diversify their operations through full commercialization. The Review Panel report acknowledged that there is a need to ensure that, under a for-profit structure, significant public policy objectives would continue to be addressed. In addition, concerns about the potential market power of for-profit infrastructure providers would have to be examined.

Corporate governance guidelines for private for-profit corporations provide a useful starting point in thinking about appropriate practices in the not-for-profit sector. They emphasize several important themes, including the need to choose directors for their skills and competence; the requirement that boards have access to needed information and outside advice; and the importance of maintaining a high degree of transparency through disclosure of information. Transparency and a vigilant board are all the more important as controls in the not-for-profit sector. Stakeholders must have more information than is available through traditional financial reports if they are to assess the performance of management and the board.

In designing government controls, there is a need to balance gains against losses that may arise from reducing the freedom of not-for-profit corporations and their scope to innovate and develop improved delivery systems. Some of the main benefits of commercialization stem from eliminating controls that increased costs and reduced the flexibility of infrastructure operations. It would be unfortunate if these gains were jeopardized by ill-conceived measures to strengthen government control.

Stakeholders can be a useful source of discipline where the interested parties can be identified and given adequate representation. This is not the case with all infrastructure organizations. Moreover, directors' fiduciary obligation to act faithfully in the interests of the organization may limit a board's usefulness as a mechanism for mediating interests.

Saskatchewan Recommendation

(II p. 16) **Appropriate changes should be made in the *Canada Marine Act* to permit Port Authorities' access to innovative funding mechanisms to finance capital improvements.**

Saskatchewan Analysis

Increased competition from the United States and other foreign ports for bulk shipments and container movements is a major challenge facing the Canadian marine transportation system. Infrastructure improvements that increase capacity utilization and enhance performance could benefit port users and customers through reduced marine transportation and handling costs and through improved access to markets.

To assist ports in maximizing their productivity, amendments should be made in the *Canada Marine Act* to permit ports innovative funding mechanisms to finance their improvements as a means of offsetting reductions in public funding.

Marine legislation unduly limits the flexibility of port authorities to pursue commercial activities required to make them financially self-sustaining because the borrowing and investment powers of port authorities are constrained. Port authorities should be granted wider powers in managing all port property and assets brought under their administration, subject to necessary ministerial consent and increased public accountability to safeguard the public interest. Potential transportation infrastructure capital investment projects that would enhance Canada's international trade competitiveness should be examined, including impediments to pursuing new capital investment projects.

The existing Act permits Canadian Port Authorities to enter into joint ventures with private sector groups (private-public partnerships). Port Authorities should be encouraged to enter into these partnerships. Appropriate mechanisms to improve the accountability of the Port Authorities may be required if they implement innovative financing arrangements.

Innovative funding mechanisms could include tax-exempt revenue bonds. Gross revenue charges payable to the federal government by port authorities should be examined during the statutory review of *Canada Marine Act* to determine whether amendments are needed to reflect capital expenditures financed from port revenues or other financing mechanisms.

Saskatchewan's Position

An early review of the *Canada Marine Act* should be established, to enable concerns about port financing and governance to be addressed, and appropriate solutions developed. Changes should be made in the Act to provide Port Authorities with increased flexibility to access innovative funding mechanisms to finance capital improvements

Saskatchewan's Planned Actions

Saskatchewan will participate in the comprehensive review of the *Canada Marine Act,* in conjunction with the other Prairie Provinces. The three provinces will address governance issues and potential funding mechanisms for port authorities that enhance the competitiveness of Canadian ports in a commercial environment.

Chapter 10 – Paying for Roads

Topic: World Bank/New Zealand Model for Commercialization of the Road System

CTA Recommendations

Recommendation 10.1 (p. 196)
The Panel recommends that the World Bank/New Zealand concepts of road and transport funding and management agencies be adapted for Canada, including the following features:

- **users should pay for roads, by means of appropriate charges and fees;**
- **charges for roads should be based on costs imposed, differentiated so far as practical by nature of vehicle, type of road, and amount of congestion;**
- **managers of the road network should have responsibility for both charging and spending decisions;**
- **users should be involved in decisions on charges and expenditures; and**
- **alternatives to road spending in other modes should be allowed to compete for road funds.**

Recommendation 12.3 (p. 227)
The Panel recommends that urban transit be permitted to qualify for funding from road user charges.

CTA Analysis

The Panel acknowledged that roads are not an explicit part of its terms of reference because they are largely outside federal jurisdiction and not addressed specifically in the legislation under review, nevertheless, it provided the recommendation 10.1 above.

Funds would be raised through road user charges including federal fuel tax, direct road use charges such as tolls, an environmental tax component[7] , provincial taxes and licence fees.

The funding and management scheme would not be unique to the National Highway System but the national network would be the base. The scheme would apply to both maintenance and capital expenditures on roads. The Panel has suggested that rural roads, urban local roads and a portion of municipal street funding be included, each having its

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[7] Two types of environmental taxation are suggested. The first is a component of the federal fuel excise tax, the second is a component of the road user charge. Canada Transportation Act Review Panel Report June 2001, pp.283, 284

own "fund" and that, on the basis of efficiency, other modes[8] could compete for funds administered by "a fund allocation agency" set up in each province. The agency as "manager" of the road network would have responsibility for both charging and spending decisions. It would simultaneously co-operate in an intergovernmental body that ensured continuity on a Canada-wide basis. The agency would be managed by an independent board including user representatives.

The National Highway Program is described as being at a stand still. In the Panel's view, the National Highway Program proposal shows benefits across the system but most of the benefits would be generated by a minority of the projects and that many, if not most, projects would not show a net benefit when assessed independently. The designation of the National Highway System is challenged in that it includes many low-volume rural highways while excluding higher volume ones in major population centers.

Saskatchewan Recommendations

(II p. 11) **In partnership with the provincial and territorial governments, the federal government needs to provide meaningful and long-term funding towards the National Highway System.**

(II p. 12) **In consultation with the Provinces and Territories, Transport Canada should ensure that any new or amendments to regulations or legislation it wishes to implement are subject to thorough analysis to determine intermodal impacts on publicly funded infrastructure. If modal impacts are predicted and/or occur due to federal legislative or regulatory changes, federal financial assistance should be extended.**

Saskatchewan Analysis

Saskatchewan recognizes the intent of the Panel to provide a solution to the road funding dilemma in Canada. The Panel has also acknowledged the federal government's obligation to provide funding.

The appropriateness of The World Bank/New Zealand Model for use in Canada is contentious owing to the myriad of issues it raises. Briefly these are:

- contradiction with present government finance policy;
- applicability to Canada, considering the geography, physical size and governmental structure differences between Canada and New Zealand;
- jurisdictional concerns arising from *The Constitution Act, 1867*;

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[8] This would include subsidies to intercity buses. Canada Transportation Act Review Panel, Report June 2001, pp.203, 204

- complication of the funding process;
- increased competitiveness within the funding process;
- addition of another layer of bureaucracy in the funding process;
- impacts upon mandates of existing provincial and territorial government departments in their delivery of a unified provincial transportation and economic development strategy; and
- the Panel's failure to draw parameters that would exclude cross-subsidization of privately owned transportation alternatives.

The Panel's recommendation regarding the proposed abandonment of the National Highway Program and the heightened focus on higher volume roads in major population centers represents a policy shift to an urban focus and away from the concept of facilitating east/west trade and binding the nation together. A compelling argument can be made for federal participation in funding the National Highways System under Section 92 (10)(c) of *The Constitution Act, 1867*. The provinces and territories, as demonstrated by their participation in the National Highway Program, have shown a willingness to partner with the federal government to ensure the integrity of the system.

Saskatchewan's second recommendation was not directly addressed by the Panel. The federal Blueprint Initiative can be used as a tool to identify areas where adverse impacts of model shifts can occur. The provinces, territories and the federal government could then collectively research these areas and develop an action plan to mitigate adverse impacts and a compensation schedule to apply where damage occurs.

Implications for Saskatchewan

Implementation of the Panel's recommendation would require a significant change in financial policy and agreement among the provinces, territories, and the federal government.

If the recommendation were implemented, Saskatchewan would be severely limited by the number of road users resident in the province (the base from which to collect road user charges) and the size of the existing road network. In addition, the present grid road system makes the possibility of pricing mechanisms such as toll roads ineffective. The federal implementation strategy and federal fuel tax apportionment formula would be key to the outcome for Saskatchewan.

Implementation of a "user-pay" road funding scheme is complicated by changes brought about by past federal legislative and policy decisions. Rural Saskatchewan economies have already been reshaped. Producers have been forced to incur longer haul distances with larger trucks to access grain handling facilities. The federal government has acknowledged this in part and, over the five year period starting in 2001–2002 will contribute $106.8 million federal dollars for investment in municipal and provincial road infrastructure under the new federal Prairie Grain Roads Funding Program (PGRF).[9] Rationalization of the present road system is inevitable based on the small number of road users in comparison with the large network of roads in the province and efficiency arguments favouring alternative modes.

Saskatchewan's Position

Saskatchewan is pleased that the Panel has recognized the federal government's role in infrastructure funding.

Saskatchewan is in favour of a Canada-wide transportation investment strategy and will participate in the federal Blueprint Initiative.

The province opposes the recommendation based on present government finance policy prohibiting designation of funds and on the principle that Saskatchewan would want to be involved in any revenue and expenditure decisions. Saskatchewan also has reservations about privately owned modes competing for public funds. Saskatchewan is prepared to discuss the recommendation with other provincial and territorial governments and will, in consultation with the other provinces and territories, explore other road financing models.

Saskatchewan perceives Canada-wide connectivity as paramount over urban congestion needs and requires an equitable share of road funding.

Saskatchewan's Planned Actions

- Dialogue with the other provinces and territories to share positions and identify concerns
- Perform a detailed analysis on implications of the funding management model and explore the possibilities of other models.
- Develop a vision for transportation in Saskatchewan linked with future economic development strategies to be used as a planning tool, for input into the visions mapping scheme and the federal Blueprint Initiative.
- Work closely with the Western Transportation Advisory Council (WESTAC) to improve the region's transportation system.

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[9] Saskatchewan's Submission to the Canada Transportation Act Review Panel, March 30, 2001, pp.13

- Partner with neighbouring provinces, territories, and U. S. states to explore regional economic opportunities and develop joint transportation strategies.

- Undertake an economic analysis of the implications of user-pay road charges to present to the federal government. The analysis could include a user-pay system design to ensure that if the proposal is adopted, the province will have input into the final scheme to be developed by the funding agency.

Chapter 11 – Ferries, Intercity Busses, & Passenger Trains

Topic: Ferries

CTA Recommendation

Recommendation 11.1 (p. 201)
The Panel endorses initiatives to reduce subsidies to ferry services and recommends that commercialization and divestiture of responsibility for local service decisions to other levels of government continue.

CTA Analysis

There has been a recent trend towards commercialization and divestitures. This has allowed federal government to reduce subsidies without reducing the level of service. This trend should continue for the remaining ferry services that the federal government supports.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The federal government no longer operates or subsidizes any ferry services in Saskatchewan. This recommendation is consistent with the federal policy of divestitures and commercialization such as is occurring with airports, ports etc.

The recommendation could impact the Lake Athabasca communities that are lobbying for ferry service to connect with the Athabasca seasonal road. Road infrastructure and use of commercial barge/ferry operators would be more consistent with this recommendation than a subsidized ferry service.

Saskatchewan's Position

This recommendation has no significant implications for Saskatchewan and no position is required.

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Topic: Intercity Buses

CTA Recommendation

Recommendation 11.2 (p. 204)
The Panel recommends that the Minister of Transport continue the process already initiated to address the regulatory fragmentation in the bus industry.

CTA Analysis

The federal, provincial and territorial governments and industry have supported deregulation of the commercial trucking industry, but there is no consensus about whether deregulation of the bus industry would be beneficial. In April 2001, Minister Collenette referred the matter to the Standing Senate Committee on Transport and Communications to address a series of questions. These questions are intended to provide some feedback about the status of the industry, its role in supporting rural access, the appropriateness of deregulation for the industry, and the need for national standards that reflect the industry safety needs. This recommendation recognizes the role of the bus industry without duplicating the work being done by the Senate committee.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The bus industry is subject to a separate review under the Standing Committee on Transport and Communications. As a result Saskatchewan did not present recommendations, but outlined its position on the proposed amendments to the *Motor Vehicle Transport Act, 1987.*

Saskatchewan's Position

Saskatchewan supports the recommendation to continue the process already initiated to address regulatory fragmentation in the bus industry.

Saskatchewan supports deregulation of charter bus service, bus parcel express and streamlining the rules for scheduled inter-city service that would significantly liberalize the industry while promoting competition and innovation in the provision of bus service. Saskatchewan is opposed to the deregulation of inter-provincial and intra-provincial scheduled bus service and supports the current regulatory regime of public convenience and necessity (PCN) for scheduled passenger service.

Saskatchewan's opposition is based on the dispersion of communities in rural Saskatchewan and the transportation choices available to residents of those communities. Saskatchewan is concerned that rural residents and economically disadvantaged need access to transportation at a reasonable cost.

Saskatchewan's Planned Actions

The Department and the Highway Traffic Board will continue to work with stakeholders and monitor the Standing Committee's activities. Future action will be recommended on the basis of the Committee's proceedings.

Topic: Safety Standards

CTA Recommendation

> **Recommendation 11.3** (p. 204)
> **The Panel recommends that the National Safety Code be structured such that all vehicles carrying paying passengers are subject to a consistent pattern of safety regulation that takes into account the scale of the operation and risk exposure but does not rest entirely on vehicle size.**

CTA Analysis

There are concerns that relaxing the controls over competitive access could result in reduced safety standards unless a strong framework is in place. While significant effort has been dedicated to the development and implementation of harmonized motor carrier safety standards in Canada through the National Safety Code for Motor Carriers (NSC), inconsistent application remains a problem. In addition, the NSC does not specifically address the commercial bus industry.

Saskatchewan Recommendation

> **This issue was not addressed in Saskatchewan's submissions.**

Saskatchewan Analysis

Saskatchewan's Position

Saskatchewan supports the inclusion of buses within the NSC with the recognition that the definition of a bus should reflect its use and not simply the number of passengers in a vehicle. Without agreement on a standard definition for commercial buses, the safety standards will not be consistently applied to buses across the country. Once the jurisdictions have agreed upon a consistent definition, the application of the safety standards should be addressed.

Saskatchewan's Planned Actions

Saskatchewan will work through the NSC managers to develop a harmonized definition of commercial buses and seek consistent application of safety standards for all buses.

Topic: Passenger Trains

CTA Recommendation

Recommendation 11.4 (p. 209)
The Panel recommends that VIA's current services be reviewed to ascertain the extent to which they have become tourism products; if they have, they should be designated as such.

CTA Analysis

The Panel divided VIA's services into three categories. They are:

1. operations whose potential are mainly tourist-oriented;

2. services that provide access to remote communities; and

3. services in high volume niche markets.

In areas where the service is based primarily on the tourist market, as a public carrier, VIA has an advantage over a private sector company wishing to operate in that market. If VIA is operating strictly a tourist service, then the decision would be easy, but in most instances VIA must move at least a small volume of local commuter passengers.

A review would collect and consider data on travelers other than tourists and assess modal alternatives. Routes designated as essentially tourist routes should be operated separately from the other VIA operations or privatized.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

This division of services provided by VIA does not recognize the low volume markets that do not qualify as "remote" access and may not qualify as a tourism product. For example, the passenger service through Saskatchewan cannot compare to the high volume traffic on the Quebec City to Windsor corridor, thus appears to be omitted from consideration. In general, passenger rail service in Saskatchewan appears to be a low priority because alternate modes of public transit are available.

Saskatchewan's Position

Federal funds should not be used to support a public service if that service can be provided just as effectively and efficiently by a private sector endeavour.

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Topic: Quebec City-Windsor Corridor

CTA Recommendations

Recommendation 11.5 (p. 210)
The Panel recommends a full cost recovery policy for Quebec City-Windsor corridor rail and its commercialization.

As a first step, corridor operations as a whole should be separated organizationally from VIA's other services. Management should be directed to pursue commercialization and to report cost recovery progress for each of the corridor services on a fully allocated basis. Management should be given full authority to terminate services that prove unsuccessful.

Recommendation 11.6 (p. 211)
The Panel recommends that, after Quebec City-Windsor corridor services have been separated from the other routes that VIA Rail now operates, legislation be enacted to give the entity providing the VIA corridor services the commercial freedom required to become and remain self-sufficient.

CTA Analysis

The bus industry has expressed concern that subsidized passenger rail along key corridors constitutes unfair competition. VIA has indicated it intends to invest $176 million of the $402 million in new capital funds from the government in improving facilities along the key passenger corridors. This use of public funds to improve the competitive position of rail is a cause of concern for the bus operators.

The Panel recognizes that the rail service will not succeed without focussed management and improved facilities. As a result of any thrust toward a self-sustaining operation, some segments of the corridor operation may have to be divested in the interest of maintaining a successful and profitable corridor operation.

Saskatchewan Recommendation

These issues were not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

Saskatchewan's Position

Federal funds should not be used to support a public service if that service can be provided just as effectively and efficiently by a private sector endeavour, whether that endeavour be within the rail mode or other modes. The province supports the principle of cost-recovery.

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Topic: Services to Remote Communities

CTA Recommendation

Recommendation 11.7 (p. 212)
The Panel recommends that each rail service now subsidized to provide access to remote communities be reviewed to determine

- **the present level of remoteness;**
- **whether a federal contribution toward development of road access (by the province in question) might constitute a more effective and efficient solution to the access issue;**
- **whether an air, bus or other service, provided by the private sector, might prove superior to rail; and**
- **whether the private sector could provide an adequate rail service more economically under contract than is possible for VIA Rail.**

CTA Analysis

VIA operates a number of services that have been retained because they provide access to communities that lack practical alternatives. The general criterion used to define "remote" is the lack of all-weather public road connection to the continental highway system.

There is no formal definition of what constitutes adequate accessibility for remote communities, but the generally established patterns include access to medical, educational and other services. These are provided on a less than cost recovery basis. Some continued subsidy of these services are essential, but some review is necessary to identify the appropriate level of subsidy. Also, consideration should be given to alternate and more economical means of providing transportation services; for example, in some regions, air travel may be more available and affordable.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

Saskatchewan's Position

Saskatchewan does not support this recommendation. While Saskatchewan has remote communities, they do not have rail access so they are not able to take advantage of the rail subsidies. Any rail subsidies for passenger service should be carefully reviewed on a regular basis to ensure that the public interest is served in an efficient and effective manner. If subsidies are required for access to remote communities, those subsidies should be available as a stand-alone program so remote areas without rail access can receive assistance to support the mode that best suits their needs.

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Topic: Passenger Services

CTA Recommendation

> **Recommendation 11.8** (p. 213)
> **The Panel recommends that the policy of commercializing passenger services, including divestiture to the private sector and other levels of government, continue. Further, where federal subsidy of passenger travel is deemed desirable, federal financial support should be reassessed periodically and carrier- and mode- neutral mechanisms to allocate the subsidies in a manner that least distorts the commercial market should be used.**

CTA Analysis

The Panel recognizes the need for provincial government input into decisions about subsidizing access to remote communities. The Panel sees this as an opportunity for a more rational comparison of subsidies where services may be provided by other modes as well as more general comparisons within the context of provincial transportation priorities.

Saskatchewan Recommendation

> **This issue was not addressed in Saskatchewan's submissions.**

Saskatchewan Analysis

Saskatchewan's Position

If the subsidy program is intended to provide access to rural communities, it should stand on that criterion, whether the access is available by rail, air, water or seasonal road that does not provide all weather access. This will allow fair access to remote communities across the country, not just those located along existing rail links.

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Chapter 12 – The National Interest in Urban Transportation

Topic: Cost-effective Service Improvements

CTA Recommendation

Recommendation 12.1 (p. 226)
The Panel recommends that transit operating agencies and their funders seek the most cost-effective ways of improving their services.

CTA Analysis

This is essentially a motherhood recommendation. Local transit authorities will advise that they are continuously looking at ways to be more cost-effective. The biggest obstacle to achieving this is competition from the private automobile.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The biggest challenge to improving operations is to shift private passenger automobile traffic to public transit. Urban sprawl in our two main cities, the relative low cost of automobile operation, the low cost of parking in the downtown area, and the convenience of private car usage deter higher utilization of public transit in Saskatchewan.

Saskatchewan's Position

Saskatchewan supports the recommendation in principle.

Saskatchewan's Planned Actions

Saskatchewan supports the recommendation and will address it more fully in the federal consultation process for the Transportation Blueprint.

Topic: Cost-effective Service Improvements

CTA Recommendation

Recommendation 12.2 (p. 226)
The Panel recommends that experimentation with innovative forms of service (smaller vehicles, shared taxis) be encouraged.

CTA Analysis

The Panel recognizes that more innovative forms of service could help to reduce growing congestion in the large metropolitan areas.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

Urban transit is less a problem in Saskatchewan than in the larger metropolitan centres such as Vancouver, Calgary, Toronto, and Montreal. Despite this, our local transit services are experimenting with innovative forms of service. In Regina, for example, the transit authority is using smaller buses after 6 p.m. on some of its suburban routes with lower evening traffic.

Saskatchewan's Position

Saskatchewan supports the recommendation, although congestion is not a major problem for our two main cities. Innovative services will be required not only to reduce congestion, but also to promote sustainable transportation in the large urban centres.

Saskatchewan's Planned Actions

Saskatchewan will address this issue more fully in federal consultations on its Transportation Blueprint.

Topic: Funding Transit Services

CTA Recommendation

Recommendation 12.3 (p. 227)
The Panel recommends that urban transit be permitted to qualify for funding from road user charges.

CTA Analysis

The rationale is that allocating a share of fuel taxes for transit services would provide transit authorities with more adequate and predictable funding. In the short-term the road user charges the Panel has in mind is a share of fuel taxes for transit projects. For the longer term the Panel favours the establishment of special funds for transit (and highway financing) such as those in the Greater Vancouver and Montreal areas. Typically, their transit authorities get a share of the fuel tax and vehicle registration fees from vehicle owners in the area they serve.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

City governments would welcome this initiative, as it would reduce the strain on their current budgets. It should be noted that Saskatchewan does not currently have dedicated fuel taxes for transportation projects.

Road Financing Authorities typically administer road funds. Road funds and user charges could become very important in the long-term, if governments were to adopt the principle of full cost road pricing for intra-city and inter-city road transportation.

Saskatchewan's Position

Saskatchewan opposes this recommendation because it is not in favour of having the entire road user system pay for only a few users. Saskatchewan does not currently have dedicated fuel taxes or special funds for transportation or transit services.

Saskatchewan's Planned Actions

Saskatchewan will be discussing the hierarchal, road funding issue with the other provinces and further examining the concept through the Blueprint Initiative.

Topic: Funding Transit Services

CTA Recommendation

Recommendation 12.4 (p. 227)
The Panel recommends that payments to transit authorities be made on the basis of their actual performance in inducing shifts from private automobile use to transit.

CTA Analysis

This recommendation seeks to tie transit funding to performance.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The expectation of the Panelists is the need for transit subsidization in the longer term would diminish as governments move to full road pricing. This would make public transit usage more attractive relative to the automobile, the cost of which would reflect their real price.

Saskatchewan's Position

Saskatchewan does not fund transit services. The funding of transit services is a municipal responsibility.

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Chapter 13 – Preserving Urban Rail Corridors

Topic: Access for Commuter Services

CTA Recommendation

Recommendation 13.1 (p. 235)
The Panel recommends that Section 118 of the *Canada Transportation Act*, as amended by the Panel's proposals, be made available to commuter authorities.

CTA Analysis

The rationale for the amendment is to extend the obligation of a railway to quote a rate for the movement of traffic at the request of a shipper to commuter authorities.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The recommendation does not affect Saskatchewan, as we do not have rail commuter authorities. Given the overall demographic projections for no major change in population size, the demand for commuter rail passenger facilities over the long-term is not likely to arise.

Saskatchewan's Position

Our position on this recommendation is neutral; it does not affect Saskatchewan. It would be helpful for jurisdictions that have commuter rail service.

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Topic: Access for Commuter Services

CTA Recommendation

Recommendation 13.2 (p. 235)
The Panel recommends that future commuter rail contracts be made public and that current contracts be made public unless one of the parties can demonstrate to the satisfaction of the Canadian Transportation Agency that the contract contains commercially sensitive information and that it would be harmed by its release.

CTA Analysis

The rationale for the recommendation is to foster greater transparency for the benefit of the public as public bodies enter into these contracts.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The recommendation does not apply to Saskatchewan.

Saskatchewan's Position

Saskatchewan's position is neutral because the recommendation does not affect it. It will benefit jurisdictions with major commuter services.

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Topic: Discontinuance Process

CTA Recommendation

Recommendation 13.3 (p. 238)
The Panel recommends that Section 145 of the *Canada Transportation Act* be amended to require that a railway offer lines it intends to discontinue to commuter rail authorities before offering them to a municipal or district government, provided the line has been identified officially as being required for urban transit purposes.

CTA Analysis

The rationale for the recommendation is to include commuter authorities in the offer sequence of the discontinuance process. Currently lines not sold commercially within a twelve month period are offered in sequence to the federal government, the provincial government and municipal governments. Commuter authorities are excluded from the process. Commuter authorities support inclusion as the authorities often serve more than one municipality, and getting agreement of municipalities can be too time consuming. The recommendation is not only to include commuter authorities in the offer sequence, but also to put them ahead of municipalities, when the line has been identified for urban transit purposes.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The recommendation will benefit commuter authorities in large metropolitan regions where the commuter authorities serve more than one municipality. The recommendation will only impact Regina if the Canadian Pacific Railway (CPR) decides to reroute its line through the City.

Saskatchewan's Position

Saskatchewan can support the recommendation, although it does not currently affect our transit providers.

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Topic: Valuation of Corridors

CTA Recommendation

Recommendation 13.4 (p. 239)
The Panel recommends that land being transferred under the *Canada Transportation Act* process at net salvage value be valued at no more than its 'across the fence' value, with no premium for assembly applied.

CTA Analysis

The rationale is to establish a fair value for any rail lines that are being transferred.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The recommendation applies to any rail corridor that is being transferred, and may have serious impacts for Saskatchewan's short line railways. If a rail line passes between the fields of two farmers, calculation of net salvage value will include the value of the land the on both sides of the line. In as much as the railway has decided to abandon the line, therefore putting little commercial value on it, reference to "across the fence" could inflate the net salvage value. Across the fence may not be appropriate for valuing agricultural branchlines that Class 1 railways are abandoning.

On first view, the recommendation could increase the cost of acquiring short lines for grain transportation. However, Saskatchewan is uncertain of the actual implications.

Saskatchewan's Position

Saskatchewan needs to study the proposal more closely.

Saskatchewan's Planned Actions

Saskatchewan will conduct some research into the concept.

Topic: Rail Line Banking

CTA Recommendation

> **Recommendation 13.5** (p. 241)
> **The Panel recommends that railway companies be required to offer for sale at net salvage value, to the relevant province, commuter authority or municipal government(s), a spur or other line not covered by the current transfer and discontinuance process, provided the line has been identified officially as being required for urban transit purposes.**

CTA Analysis

The rationale for the recommendation is to have a process to expedite spurs and other lines that are no longer used by the railway but are not scheduled for abandonment, to be made available for urban transit purposes, if the commuter authorities have officially identified them for urban transit purposes.

Saskatchewan Recommendation

> **This issue was not addressed in Saskatchewan's submissions.**

Saskatchewan Analysis

The recommendation will have no impact on Saskatchewan from a commuter rail service perspective.

Saskatchewan's Position

Although the recommendation does not impact Saskatchewan, it neutral on this issue as it is uncertain of the implications for the province.

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Topic: Funding Rail Line Purchase for Urban Transit

CTA Recommendation

Recommendation 13.6 (p. 241)
The Panel recommends that the purchase of railway lines for use as urban transit corridors (including spurs identified through the process set out in the previous recommendation) qualify for funding consideration from the provincial and territorial roads and transport funds the Panel proposes.

CTA Analysis

The recommendation provides another potential avenue for financing the purchase of railway lines for urban transit by giving the commuter authorities access to any transportation fund that the provinces may establish.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The recommendation does not impact Saskatchewan.

Saskatchewan's Position

Saskatchewan views funding arrangements for the purchase of discontinued or abandoned rail lines for urban transit purposes as a matter between provincial jurisdictions and their urban municipalities.

Saskatchewan's Planned Actions

Saskatchewan has no planned actions.

Chapter 14 – Transportation Accessibility

Topic: Transportation Accessibility for Persons with Disabilities

CTA Recommendations

Recommendation 14.1 (p. 249)
The Panel recommends that the Canadian Transportation Agency be given the power to investigate accessibility matters on its own motion.

Recommendation 14.2 (p. 249)
The Panel recommends that the attendant air fare issue be resolved as quickly as possible.

CTA Analysis

CTA acknowledges that considerable progress has been made since the introduction of transportation accessibility legislation (thirteen years ago). CTA does not currently have the power to investigate systemic problems on its own motion. It can only respond to a specific complaint. CTA feels this is a gap that limits the effectiveness of the legislation.

The issue of attendant airfares remains unresolved. CTA has identified a number of possible solutions, but feels more analysis and discussion is required. It is recommending that this issue should be resolved.

Saskatchewan Recommendations

These issues were not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

These are important issues that warrant resolution. The CTAgency is recommending that it be given the power to investigate systemic accessibility issues and proceed to resolve the attendant airfare issue. The issues are complex and will have significant implications for persons with disabilities and the providers of transportation services, including Saskatchewan carriers such as bus services and airlines.

Implications for Saskatchewan

Little impact is anticipated in the short-term for Saskatchewan persons with disabilities, the Saskatchewan government and transportation service providers in Saskatchewan. Time will be required for the Agency to undertake these investigations.

Implementation of these recommendations should result in less systemic barriers for Saskatchewan persons with disabilities. There should be little impact to the Saskatchewan government, with some economic impact to Saskatchewan transportation service providers and general users. The ability of the Agency to deal more efficiently with systemic barriers may reduce the resources required to deal with individual complaints.

Saskatchewan's Position

Saskatchewan supports the efforts of the CTA to investigate and resolve systemic accessibility issues including the attendant airfare issue.

Care will need to be taken to ensure the Saskatchewan specific circumstances are addressed in any potential solutions. Any proposed changes to address these issues should consider the needs of our citizens with disabilities as well as the challenges of providing passenger services in our rural and isolated regions.

Saskatchewan's Planned Actions

Saskatchewan will participate in the efforts of the CTA to resolve the various accessibility issues for travelers with disabilities.

Saskatchewan will ensure the needs of its citizens with disabilities are considered along with our transportation service providers.

Chapter 15 – The Trucking Industry

Topic: Framework for the Trucking Industry

CTA Recommendation

Recommendation 15.1 (p. 259)
The Panel recommends that federal, provincial and territorial governments collectively recognize the need for a cohesive framework to govern the multiple elements of the trucking sector.
The Panel recommends further that jurisdictions establish a time frame for developing and implementing an effective framework to govern all elements of the trucking industry.

CTA Analysis

The Panel recognizes the relatively small role played by the federal government. The federal government establishes the conditions under which regulation is delegated to the provinces under the *Motor Vehicle Transport Act, 1987* (MVTA, 1987). Otherwise, the federal government has interest in only a few areas. However, the Panel goes on to state that aside from its strict constitutional responsibilities, the federal government has a large interest in trucking policies because trucks are continuously crossing jurisdictional boundaries. Trucks also haul freight from almost all sectors of the economy, so they have a significant impact on the economic development of the country.

Concerns were expressed about safety and the lack of uniform standards both within Canada and between Canada and the United States. With the termination of economic regulation of the trucking industry, the federal government intended that each province and territory determine safety fitness for extra-provincial carriers as long as the fitness rating regime is consistent with the National Safety Code (NSC). Failure to adopt a uniform and consistent application of the NSC has caused concern among the industry.

The Panel addresses a series of options for addressing the lack of uniformity, ranging from a two tier regulatory system to a form of economic re-regulation. In all instances, the focus on uniformity should not lose sight of the differences in markets and transportation requirements across the country. Regional accommodations may be warranted.

Many areas of trucking are not within federal jurisdiction. These areas include vehicle weights and dimensions, reciprocal fuel tax agreements, International Registration Plan for truck registrations, and the Commercial Vehicle Safety Alliance for roadside inspections. The federal government has responsibility for other areas of trucking, such as cabotage or reciprocal recognition of safety ratings. There is an apparent need for federal activity, where the federal government is responsible (primarily international areas), or for federal leadership of issues within provincial jurisdiction. This is especially important when addressing the growing north/south trucking movement and dealing with the United States. The Panel acknowledged the collective efforts of the federal and provincial governments in promoting compatible standards and regulations within NAFTA, but noted that the lack of uniformity among Canadian jurisdictions remains an issue to be resolved.

Saskatchewan Recommendation

> (II p. 39) **Saskatchewan recommends that federal legislation should ensure that Transport Canada continues to work with the Provinces and Territories to implement consistent trucking standards to be applied uniformly across the country as a means of facilitating safe and efficient movement of goods and services.**

Saskatchewan Analysis

For most of the province, trucking is the only mode available for the delivery of goods and services necessary to support local communities, businesses and industries. Thus, efficient trucking is necessary if Saskatchewan is to be competitive in world markets.

Saskatchewan has been actively involved in co-operative efforts to harmonize standards, both nationally and internationally, and supports the existing legislative framework. Saskatchewan does not support a framework that will allow Transport Canada to impose its leadership through legislation. The leadership should be obtained through garnering support of the provinces and territories, but Transport Canada should have the means available to assume such a leadership role.

Any work to establish uniform standards should recognize the regional differences in traffic volumes, vehicle types and highway conditions across the country.

<u>Saskatchewan's Position</u>

Saskatchewan supports this recommendation with the caveat that Transport Canada be required by legislation to work closely with the provinces and territories to establish standards that are acceptable and uniform for inter-provincial, as well as intra-provincial trucking. Presently, the federal government's MVTA, 1987 addresses inter-provincial and international truck movements. Although it is restricted to cross-border movements, the principles should extend to all trucks.

Saskatchewan's Planned Actions

Saskatchewan will continue to work through established forums, such as Canadian Council of Motor Transport Administrators (CCMTA) and the Task Force on Vehicle Weights and Dimensions, to establish harmonized standards.

Chapter 16 – The Impact of E-Business on Transportation

Topic: Development of E-business and E-commerce

CTA Recommendations

Recommendation 16.1 (p. 273)
The Panel recommends the establishment of a co-operative program with the national carrier associations in all modes to facilitate and encourage the development of e-business and e-commerce skills and training in the application of technologies.

CTA Analysis

Electronic business (e-business) is any transaction involving the electronic exchange of information. Electronic transactions that involve the buying and selling of commodities or services are referred to as electronic commerce (e-commerce).

E-business has potential to present both benefits and challenges for Canadian transportation. The shift from a "push economy" where the products are delivered to intermediaries prior to having an end-use purchaser to a "pull economy" where the manufactured product is already purchased when it is shipped is resulting in smaller and more frequent shipments. Transportation has a significant influence on the reliability of the purchase process and the satisfaction of the end purchaser. Transportation has to support the changing demands generated by electronic business.

Potential changes include:

- reduced transportation needs through "dematerialization" of traditional products. Technologies such as e-mail have resulted in reduced need to send "hard copy" correspondence;

- reduced need to maintain inventories and reduction of the unnecessary transport of products that may be returned if they are not sold;

- increased range from which products may be available. Global on-line trading will result in increased demand for timely transportation services covering a greater distance; and

- modal shifts - smaller shipment sizes will result in shifting freight from rail to truck and, within the trucking sector, from truckload to less-than-truckload and from less-than-truckload to parcel/courier service.

These changes will place a premium on the transportation modes that are faster and more reliable. This will result in expanded use of air mode and, within the air mode, more use of third-party air express services to provide delivery direct to the customer.

Barriers to adoption of e-business in specific sectors include:

- low margins for many small transportation firms (especially in the trucking and marine sector) combined with high costs of technology;
- compatibility with existing system;
- uncertainty about potential benefits;
- lack of action by all participants in the supply chain;
- lack of interoperability between information systems used by different modes;
- lack of proper technical skills and training;
- concerns about security; and
- organizational culture.

Many of these barriers can be addressed through programs promoting the benefits of e-business and encouraging education and skills training necessary to support e-business applications. This can best be achieved through a national strategy facilitated by the federal government.

Saskatchewan Recommendation

This issue was not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

Many businesses in Saskatchewan are operating on marginal profits, so they are unable to invest the funds necessary to support the use of new technology intended to increase efficiency and improve access to world markets. This could eventually result in small Saskatchewan-based business being left "out of the loop" as the world market and logistics systems evolve.

From a provincial perspective, expansion of e-business opportunities will raise the expectations of consumers. As these expectations are raised, the thresholds for business efficiency will be raised. Failure to actively promote e-business opportunities and represent the interests of the smaller companies may result in Saskatchewan being a less attractive environment for businesses wishing to compete in world markets. This is not an issue requiring regulatory reform, but one that will impact on Saskatchewan's ability to participate in the world economy and attract new businesses to the province.

Saskatchewan's Position

Saskatchewan is supportive of this recommendation. E-business has the greatest implications for transactions that take place over extended distances. Since this infers national and international trade, the federal government should take the lead in facilitating a program to encourage the use of e-business.

Any co-operative program drawing input from all modes should ensure that e-business processes are consistently available across modes, thus enabling multi-modal transportation. This is important for Saskatchewan to optimize opportunities for increasing transportation efficiencies.

Saskatchewan's Planned Actions

Saskatchewan is constantly monitoring economic opportunities.

Topic: Streamlining Communication Processes

CTA Recommendation

> **Recommendation 16.2** (p. 274)
> **The Panel recommends that the government continue to develop e-government initiatives aimed at streamlining both internal and government/industry communication processes.**

CTA Analysis

Streamlining compliance and regulatory functions, such as vehicle registrations and border clearance, have significant potential to improve efficiency for interjurisdictional travel. Within the federal government, linking the activities of the different departments and agencies that have a role in transportation (for example, Transport Canada, Canada Customs and Review Agency, and Industry Canada) can generate efficiencies by providing "single-window access" to users.

Federal leadership is required to promote adoption of common standards and protocols, not only across Canada, but also between Canada and the United States.

Saskatchewan Recommendation

> **This issue was not addressed in Saskatchewan's submissions.**

Saskatchewan Analysis

Saskatchewan's Position

Saskatchewan sees this as an area where the federal government can take a lead by serving as a role model for provincial and territorial governments and by providing incentives to the jurisdictions and industry to implement programs that improve efficiency.

Saskatchewan's Planned Actions

Saskatchewan will continue with its efforts to implement programs intended to streamline the government's interaction with stakeholders. According to Saskatchewan's *Strategic Plan for E-Government in the Digital Economy*, all forms will be placed on-line by 2002 and by 2004, 90% of all transactions between the provincial government and citizens of Saskatchewan will be available on-line.

Chapter 17 – The Environment and Sustainable Development

Topic: Environment and Transportation

CTA Recommendation

> **Recommendation 17.1** (p. 285)
> **The Panel recommends that the statement of objectives of national transportation policy in the *Canada Transportation Act* recognize the environmental goals of national policy.**

CTA Analysis

The Panel recognizes that federal government must work co-operatively with other levels of government to achieve its environmental objectives. Energy use and greenhouse gas emission national targets cannot be achieved without changes in the transportation sector. A starting point for co-operative action would be to link transportation policy with the national environmental goals.

The Panel believes that the major opportunities to achieve an environmentally sustainable transportation system are through:

- charging directly for road use, with charges including an environmental component; and
- permitting urban transit and other modes to compete with roads for investment funds.

These proposals are addressed in greater detail in Chapters 10, 11, and 12 of the CTA Review report.

Other areas of opportunity to achieve sustainable transportation include traffic management, public information, and land use planning.

Saskatchewan Recommendation

> (II p. 19) **Amendments to federal transportation legislation must not create regulations or internal conflicts that will negatively impact the ability of the federal, provincial and territorial governments to encourage sustainable development initiatives within the transportation sector.**

Saskatchewan Analysis

The transportation sector accounts for a significant percentage of Saskatchewan and Canada's greenhouse gas emissions. Achieving emissions reduction in the transportation sector will be a major challenge in Saskatchewan because of dependence on the automobile, the dispersed population and the fuel requirements of the agricultural sector for off-road equipment.

It is important that any new federal transportation legislation, not create regulations or internal conflicts that will negatively impact the ability of the federal, provincial and territorial governments to encourage sustainable development initiatives within the transportation sector. Federal transportation legislation should be assessed against the objective of encouraging sustainable development through energy efficiency, conservation, emissions reduction and alternative fuels while maintaining reliable and competitive transportation services.

Federal legislation should promote policy coordination between governments and the private sector with respect to establishing realistic and mutually agreed to goals, objectives and implementation schedules for sustainable transportation development and the environment.

Saskatchewan strongly supports the Panel's comments with respect to:

> "Sustainable development recognizes that, without a growing economy, it is difficult to support wise resource use and sound environmental management. At the same time, without a clean environment and a productive resource base, the economy cannot be strong over the long run."

Saskatchewan is willing to accept the recommendation provided undue costs are not imposed. "Correct" road pricing needs to be defined and implemented. In addition, provincial governments need to be involved in establishing sustainable national/global environmental goals. Policies to ensure competitiveness against other countries not held to the same environmental goals, need to be addressed.

Implications for Saskatchewan

Little impact for Saskatchewan is anticipated in the short-term. The Panel's proposal for road pricing will play the central role for achieving the federal government's sustainable transportation goals. Implementation of correct road pricing is not anticipated in the short-term.

Implementation of "unrealistic" environmental goals or implementation schedules could have a significant negative impact on Saskatchewan economic growth and global competitiveness. The province's agriculture and energy sectors could be adversely affected by federal policy initiatives to meet environmental objectives. Particularly considering, how global environment goals are set and followed by other countries. On the other hand, with implementation of "correct" road pricing and competition for investment funds, current road infrastructure pressures could be reduced and the system could evolve to a sustainable condition.

Saskatchewan's Position

Saskatchewan supports the concept of sustainable transportation from both environmental and financial perspectives and is prepared to work with federal government to establish links between transportation and environmental policies provided they address the specific circumstances of each jurisdiction. Federal transportation initiatives to promote environmental objectives such as reduced congestion and pollution will primarily benefit urban areas and other densely populated regions. Saskatchewan supports the direction of these environmental objectives, provided that the transportation priorities of this province and other less densely populated regions are adequately addressed by federal policy initiatives. The needs of agricultural producers and the energy industry must also be considered in developing transportation policies to meet environmental goals.

Saskatchewan supports the development of alternative fuels such as ethanol to reduce vehicle emissions, to reduce air pollution and promote sustainable transportation systems.

Saskatchewan's Planned Actions

Saskatchewan will monitor national and international developments in the areas of environmental sustainability.

Saskatchewan will participate in federal initiatives to implement recommendation.

Presently, Saskatchewan's specific concerns relate to: road-pricing proposals, rural versus urban transportation needs, and northern issues related to limited transportation options, costs and economic opportunities.

Chapter 18 – Public Policy Development

Topic: Access to Airline Data

CTA Recommendation

Recommendation 18.1 (p. 293)
The Panel recommends that the Minister of Transport take the necessary steps to make available for Canadian operations, carriers and airports information similar to that routinely available in the United States.

CTA Analysis

The Panelists recognize confidentiality concerns, but believe that restrictive data access can hamper competition and efficiency. Furthermore, access similar to that in the United States would place analysts in a better position to examine public interest issues.

Saskatchewan Recommendations

(II p. 34) **Require aviation and rail entities to provide comprehensive data as a means of monitoring consumer protection and competition issues.**

(II p. 36) **Transport Canada should undertake annual sample surveys of air travelers to assess satisfaction with domestic carrier services.**

Saskatchewan Analysis

Saskatchewan would benefit from the implementation of the recommendation, as we do not have adequate and timely data for monitoring the impact of airline restructuring. When Transport Canada began to de-regulate transportation, it also reduced the scope of its data collection on the grounds, that they were no longer needed in a deregulated environment. It also began to commercialize data collection and production.

Saskatchewan's Position

Saskatchewan supports the CTA recommendation.

Saskatchewan also sees the need for annual sample surveys to assess air travelers' satisfaction with domestic air services.

Saskatchewan's Planned Actions

Saskatchewan will work with Transport Canada, either on its own or in partnership with other jurisdictions through the Aviation Standing Committee, to identify gaps in airline data requirements through the process that Transport Canada undertook to establish following the Air Transportation Statistics Forum held in June 8, 2001.

Topic: New Data and Methods

CTA Recommendation

Recommendation 18.2 (p. 293)
The Panel recommends that the government and transportation industries expand the collection of transportation data and develop new procedures to reflect changes occurring in the domestic and global economies.

CTA Analysis

The Panel sees the potential for a misfit between current information that is being collected because of changes in the domestic and global economies. The need is to collect data that is timely and relevant in collaboration with industry.

Saskatchewan Recommendation

(II p. 37) **Measure the competitiveness and efficiency of each mode of transportation on a continuous basis.**

Saskatchewan Analysis

The recommendation would be beneficial to Saskatchewan. There may be cost implications, and it is not likely that Transport Canada or Statistics Canada would undertake collecting information for users at public expense. Some industries will be hesitant to provide business sensitive information that their competitors may use to affect their competitiveness. This will be especially true where there is a high degree of business concentration.

Saskatchewan's Position

Saskatchewan recognizes the need for quality, timely and relevant data.

Saskatchewan's Planned Actions

Saskatchewan will work with Transport Canada on initiatives to improve the quality, timeliness and relevance of data.

Topic: Data Sharing by Government Departments

CTA Recommendation

Recommendation 18.3 (p. 293)
The Panel recommends that the *Canada Transportation Act* be amended to ensure that transportation data can be shared across federal departments.

CTA Analysis

The rationale is to enable departments to access timely data on all modes and to co-operate on horizontal issues and policy. Currently, because of confidentiality rules, one department cannot use data collected by another department.

Saskatchewan Recommendation

> (II p. 37) **Measure the competitiveness and efficiency of each mode of transportation on a continuous basis.**

Saskatchewan Analysis

Saskatchewan sees the need for quality, timely and relevant data to facilitate policy making and assess modal performance. Greater co-operation among federal governments may, over time, encourage greater sharing of data between federal and provincial jurisdictions.

Saskatchewan's Position

Saskatchewan will urge the federal government to remove legal impediments that hamper data co-operation among its departments, subject to appropriate confidentiality requirements.

Saskatchewan's Planned Actions

Saskatchewan will work with the federal government on initiatives to improve the quality, timeliness and relevance of transportation data for all modes.

Topic: Data on Subsidized Services

CTA Recommendations

> **Recommendation 18.4** (p. 294)
> **The Panel recommends that the Minister of Transport ensure that detailed information on the extent and cost of federally supported transport infrastructure or carrier services be made available and encourages similar actions by other levels of government.**

CTA Analysis

This could be beneficial as the intent is to increase public awareness of the cost of public-supported transportation services.

Saskatchewan Recommendation

(II p. 37) **Measure the competitiveness and efficiency of each mode of transportation on a continuous basis.**

Saskatchewan Analysis

This recommendation may be helpful in gaining public support for shifts in public policy affecting transportation.

Saskatchewan's Position

Saskatchewan supports measures that will increase the public's understanding of the real costs of transportation.

Saskatchewan's Planned Actions

Saskatchewan will work with the federal government on initiatives to promote the public understanding of the real costs of transportation services on both a national and provincial basis.

Topic: Non-compliance

CTA Recommendation

Recommendation 18.5 (p. 294)
The Panel recommends that penalties be introduced that will provide effective incentives to comply with data reporting requirements.

CTA Analysis

This rationale is to strengthen penalties for non-compliance, as existing penalties do not appear to be a viewed as costly for some reporting entities, either because there are no costs for non-compliance or the costs are negligible.

Saskatchewan Recommendation

(II p. 37) **Measure the competitiveness and efficiency of each mode of transportation on a continuous basis.**

Saskatchewan Analysis

This may help Statistics Canada and Transport Canada provide more timely transportation data. Statistics Canada complains that its publications are often delayed because staff have to return several times to collect data they should be getting from firms, and they often have to return once again when they receive the wrong data or inadequate data. There are no penalties for entities that do not provide data, provide the wrong data or do not provide it in a timely fashion.

Saskatchewan's Position

Saskatchewan can support the recommendation.

Saskatchewan's Planned Actions

Saskatchewan will co-operate with federal agencies to improve the quality, timeliness and relevance of transportation data.

Topic: Restricted Information

CTA Recommendation

> **Recommendation 18.6** (p. 294)
> **The Panel recommends that the restriction on monitoring in subsection 50(3) of the *Canada Transportation Act* be repealed.**

CTA Analysis

Restrictions in the Act that hinder Transport Canada's ability to monitor rail rates levels, terms and conditions of service, and fees charged by Canada Port Authorities should be removed. Transport Canada needs full access to this information in order to assess the state of rail competition and to monitor Canada Port Authorities. The Panel notes that this restriction was partially lifted last year to allow Transport Canada to monitor the grain transportation and handling system.

Saskatchewan Recommendations

> (II p. 37) **Measure the competitiveness and efficiency of each mode of transportation on a continuous basis.**

Saskatchewan Analysis

Saskatchewan sees the need for quality, timely and relevant data to facilitate policy-making and assess modal performance.

Saskatchewan's Position

Saskatchewan can support the recommendation.

Saskatchewan's Planned Actions

Saskatchewan will co-operate with federal agencies to improve the quality, timeliness and relevance of transportation data.

Topic: Transportation Research

CTA Recommendation

> **Recommendation 18.7** (p. 296)
> **The Panel recommends that the government increase its support for transportation research.**

CTA Analysis

The rationale for the recommendation is the need for action to sustain and strengthen Canadian expertise and research in transportation at universities, as well as, within governments.

Saskatchewan Recommendation

> (II p. 37) **Measure the competitiveness and efficiency of each mode of transportation on a continuous basis.**

Saskatchewan Analysis

Improving the quality of transportation information will be helpful for transportation planning and public policy-making.

Saskatchewan's Position

Saskatchewan supports the recommendation.

Saskatchewan's Planned Actions

Saskatchewan will continue to support transportation research through the university, its internship program and professional development of department staff.

Topic: Policy and Legislative Cohesion

CTA Recommendation

> **Recommendation 18.8** (p. 297)
> **The Panel recommends that transport policy and legislation be guided by underlying principles, such as those identified in this report, that are common to all transportation modes.**

CTA Analysis

Many of the laws for which the Minister of Transport is responsible are narrow in scope, but a significant number have broad application in the Canadian economy. The Panel also notes that some important transport-related economic legislation is not the responsibility of the Minister of Transport, such as the provisions regarding fees for marine navigation services (which are the responsibility of the Minister of Fisheries and Oceans).

Whether we take the broad or the narrow view of economic regulation, it is clear that the matrix of transportation legislation has led to conflicting approaches to regulation. The different acts have proceeded through Parliament at different times, driven by policy arguments particular to the concerns and issues of the day.

Another problem arises because many of the later pieces of legislation contain provisions calling for periodic review. There seems to be little coordination in the timing of these reviews. The Panel believes that it will be difficult to achieve a common vision of transportation policy, while policy in individual sectors is treated separately from the rest of transportation policy. The Panel is concerned that the ensuing array of legislation could result in conflicting policy directions. It is very much in Canada's economic interest to ensure appropriate policy coordination.

Saskatchewan Recommendation

> (II p. 23) **The vision statement must reflect the necessity of integrating modes and jurisdictional responsibilities to benefit clients competing in the global marketplace.**

Saskatchewan Analysis

Transportation issues can no longer be confined within a single mode or a single jurisdiction [or a single legislative mandate]. Modes are already inextricably linked in the economic landscape – they often both compete and co-operate. For example, trucks often move traffic to and from the rail system and compete directly with the rail movement. One mode's activities often have significant impacts on other modes. A clear example is the relationship between trucking and rail and the associated impacts on Saskatchewan's roads due to changes in grain rail transportation.

Saskatchewan's Position

Saskatchewan supports the recommendation.

Saskatchewan's Planned Actions

Saskatchewan will fully participate in Transport Canada's national Transportation Blueprint initiative over the next year.

Chapter 19 – Other Legislative Changes

Topic: Agency Powers

CTA Recommendations

Recommendation 19.1 (p. 299)
The Panel recommends that provisions of *Canada Transportation Act* imposing an obligation or prohibiting specified actions without mandating the Canadian Transportation Agency to administer them be reviewed and, if necessary, amended to provide that the Agency can enforce them on complaint.

Recommendation 19.2 (p. 300)
The Panel recommends that Section 29 of the *Canada Transportation Act* be amended to give the Canadian Transportation Agency the power to extend the 120-day time limit on its own motion where not doing so would cause serious prejudice to a party. The Agency should be required to report the circumstances where it exceeds its statutory time limit in its annual report.

Recommendation 19.3 (p. 301)
The Panel recommends that the Canadian Transportation Agency be given the statutory authority to engage in mediation and to establish rules setting out when mediation may be required before complaints or applications enter a formal decision process.

CTA Analysis

The power of the Agency to compel observance of railway obligations has been limited by a recent court ruling that restricts the Agency's authority to matters mandated by the Act. The Review Panel maintains that parties should not be forced to take court action to resolve matters involving non-compliance with obligations not clearly prescribed in the Act

The Act provides that the Agency shall make its decisions as expeditiously as possible, but no later than 120 days after the originating documents are received, unless the parties agree to an extension. However, the Review Panel does not believe that parties should be able to prevent the Agency from dealing with a complaint by withholding their consent to an extension.

The Panel believes that mediation can enhance regulatory efficiency and the Agency should be given flexibility to choose the most effective means to settle disputes that come before it. Therefore, it has advocated that a legislative basis should be provided, giving the Agency the power to establish rules for mediation.

Saskatchewan Recommendation

These issues were not addressed in Saskatchewan's submissions.

Saskatchewan Analysis

The Agency should have the authority to define a federal railway for purposes of enforcing provisions of the Act. The Agency should be empowered to require railways to comply with provisions of the Act, on complaint or at its discretion.

When the Agency exercises discretion to extend the 120-day time limit, it should be required to show cause for the extension.

Provision should be made for mediation to be initiated at the request of one or both of the parties to a dispute, but should not be mandated. The mediation process should be reviewed within a two-year period, to determine its effectiveness and compliance with negotiated solutions. This would ensure that the process promotes enforceable settlements.

Implications for Saskatchewan

The recommendations to increase Agency authority to ensure railway compliance with obligations under the Act would modestly increase the bargaining power of shippers in negotiations with the railways, and provide greater flexibility to resolve rate and level of service issues.

Saskatchewan's Position

Saskatchewan concurs with the direction of the Review Panel's recommendations. The proposed changes in the Agency's authority should be fine-tuned to increase their effectiveness in promoting negotiated solutions.

Saskatchewan's Planned Actions

Saskatchewan will support the Review Panel's recommendations in principle, while proposing revisions in the Agency's role that promote a competitive, least-cost transportation system.

Topic: Review of the Act

CTA Recommendations

Recommendation 19.4 (p. 301)
The Panel recommends that section 53 of the *Canada Transportation Act* be brought into line with the national transportation policy, as amended by the Panel's proposals.

Recommendation 19.5 (p. 301)
The Panel recommends that the Minister of Transport consider whether legislative amendments are needed to give a review Panel the power to compel the production of documents.

CTA Analysis

The objective of the review, as specified in the Act, is to assess whether the legislation "provides Canadians with an efficient, effective, flexible and affordable transportation system". However, the national transportation policy refers to a safe, economic, efficient and adequate network of viable and effective transportation services, accessible to persons with disabilities, and that makes the best use of all available modes of transportation at the lowest total cost.

The Act gives a review Panel the powers of commissioners under Part I of the *Inquiries Act*. A recent court decision cast doubt on the circumstances under which the production of documents can be compelled. Opportunities exist to address this potential problem before another review Panel is appointed.

Saskatchewan Recommendations

(II p. 34) **Require aviation and rail entities to provide comprehensive data as a means of monitoring consumer protection and competition issues.**

(II p. 35) **Transport Canada should conduct a comprehensive study on the state of intermodal movements in Canada with the study to concentrate on transfer points between the various transportation modes.**

(II p. 35) **Transport Canada should conduct a comprehensive study to determine how funding responsibilities for transportation infrastructure has affected and is being impacted upon by the economics of transporting goods across different transportation modes.**

(II p. 36) **Transport Canada should undertake annual sample surveys of air travelers to assess satisfaction with domestic carrier services.**

(II p. 36) **Require the Minister of Transport to carry out an independent review of the operation of a restricted airline industry no later than January 2003, and that this review be undertaken in addition to the annual reviews conducted by the Air Travel Complaints Commissioner and by the Independent Transition Observer on airline restructuring.**

Saskatchewan Analysis

The Review Panel recommendations for amending Section 53 of the *Canada Transportation Act* to be more consistent with the objectives of national transportation policy provide a more comprehensive framework for improving the performance and efficiency of the Canadian transportation system. The new policy statement addresses priority issues such as development of least-cost solutions including modern logistics practices, and promoting neutrality among modes.

Saskatchewan concurs with the recommendation that provision must be made for federal review of the transportation system and access to data to monitor system performance. It is essential for the federal government to have the authority to obtain necessary documents and data in a commercial environment, to ensure that the Act promotes the development of a system that is a world leader in performance and efficiency, and benefits users and other stakeholders.

Implications for Saskatchewan

No impacts are expected prior to the next statutory review of transportation legislation.

Accountability of rail and air carriers and other service providers would be improved through provision for making documents available to future reviews of the *Canada Transportation Act.*

Revising Section 53 of the Act to incorporate the increased scope of national transportation policy recommended by the Review Panel would provide a more comprehensive framework for encouraging a competitive, customer-oriented transportation system that benefits Saskatchewan shippers and other users.

Saskatchewan's Position

Saskatchewan is in support the Review Panel's recommendations.

Saskatchewan's Planned Actions

Provincial communications strategy for responding to the Review Panel's recommendations will endorse this recommendation.

Topic: Railway Line Construction and Railway Police

CTA Recommendations

> **Recommendation 19.6** (p. 302)
> **The Panel recommends that the Minister of Transport consider whether the existing exemption in section 98 of the *Canada Transportation Act* is appropriate.**

Recommendation 19.7 (p. 303)
The Panel recommends that the provisions of the *Canada Transportation Act* allowing railways to appoint police constables be repealed and that responsibility for policy questions on railway police issues be transferred to the appropriate government department.

CTA Analysis

Agency approval for rail line construction, including rail sidings, yards, and other facilities, under the *Canada Transportation Act* triggers an environmental assessment of the proposed construction under the *Canadian Environmental Assessment Act*. Agency approval is not required for new railway lines or other facilities if they are built within the right of way of an existing railway line or within 100 metres of the centre line of an existing railway line for a distance of no more than three kilometres. Facilities such as intermodal yards and trans-shipment centres, which could be built within these limits, would be exempt from Agency approval. They would therefore not trigger the environmental assessment, even if they were major facilities with significant potential environmental consequences.

Railway companies are allowed to have their own police forces under the Act. Another branch of government with knowledge of the issues should handle questions such as the need for special railway police forces and the need for independent review of railway police action if there are to be such forces.

Saskatchewan Recommendation

These issues were not addressed in Saskatchewan's submission.

Saskatchewan Analysis

Saskatchewan recommends that any exemption from the environmental assessment process for rail facilities should be under the auspices of the *Canadian Environmental Assessment Act*, not the *Canada Transportation Act*. There are currently no exemptions under the *Canadian Environmental Assessment Act* for rail facilities.

Saskatchewan concurs with the recommendation that the railway industry's independent policing authority should be repealed, and transferred to policing agencies accountable to appropriate government departments.

Implications for Saskatchewan

Improved accountability concerning environmental regulation and policing issues for the rail industry would be encouraged.

Saskatchewan's Position

These issues were not addressed in the two Saskatchewan submissions to the Review Panel.

Saskatchewan's Planned Actions

The benefits of having environmental issues related to the rail industry addressed through environmental review provisions under the *Canadian Environmental Assessment Act* will be included, where appropriate, in the department's communications strategy responding to the Review Panel report.

Chapter 20 – Toward a Vision for National Transportation Policy
Proposed Principles of A National Transportation Policy

Topic: Competitive, Market-Driven Transportation System

CTA Principles

Principle 1 (p. 312)
Economic well-being and growth are best served by an economic and efficient transportation system, making the best use of all modes at lowest total cost.

Principle 2 (p. 312)
Competition and market forces are to guide the transportation system.

Principle 3 (p. 312)
Where competition is lacking, regulation may be needed to limit the exercise of market power. Such regulations should be neutral, not favouring one carrier or mode over another.

Principle 4 (p. 312)
Transportation users and providers pay for the real costs of resources, facilities and services provided to them at public expense and, as far as practicable, shared public infrastructure facilities include direct user input in decisions on funding and spending.

CTA Analysis

[Chapter 20] sets out a number of principles ['Principles', in the 'CTA Recommendations' section above and in the next Topic] the Panel believes should be incorporated in a revised statement on national transportation policy. They are not expressed in the legal language needed for a new act; the emphasis is on the concepts rather than specific language.

During its consultations the Panel heard repeated calls for a new and forceful vision for national transportation policy. For most, vision calls for stronger leadership by the federal government, to bring greater coordination, harmonization and integration of the various transportation modes.

The Panel endorses what has been the principal underlying objective of national transportation policy for more than three decades. Canada is best served by an economically efficient transportation system. There are subsidiary goals that society is likely to pursue, but they should not obscure the fundamental objective.

Where policies are pursued that conflict with the efficiency of the system and impose costs on carriers and users, such policies must be applied in a cost-effective manner, preferably in ways that do not distort the efficient choice of modes. If there are substantial costs of achieving certain non-economic goals, the question that arises is whether to levy those costs on transportation carriers and users, or whether it is more appropriate for general taxpayers to pay for them as 'imposed public duties'. There is no simple or general answer to these questions.

An efficient and effective transportation system is vital to the economic development of the regions and the whole country. Transportation is the backbone of domestic and international trade. It is vital for the production and trade of resource-based products, and it is vital to the functioning of urban regions, where much of the wealth is produced in a new economy.

The consensus is that market competition within and among transport modes should be the organizing mechanism for transportation, as far as possible. Where competition is lacking, there is a need for regulation or pro-competitive policies to compensate for the lack of market competition.

The first four principles [above] describe an idealized competitive, market-driven transportation system.

Saskatchewan Recommendations

(I p. 7 and II p. 9) **Saskatchewan envisions a national regulatory environment that supports healthy working relationships between industry and transportation services. This regulatory environment must include three key principles: competition, co-operation, and commitment.**

(II p. 21) **Incorporate a vision statement in the *Canada Transportation Act.***

(II p. 22) **The vision statement must clearly continue the primacy of competition; where regulation is necessary to serve the transportation needs of shippers and travelers, the regulations should correct the market to obtain an outcome similar to that achievable under competitive market conditions.**

(II p. 23) **The vision statement must reflect the necessity of integrating modes and jurisdictional responsibilities to benefit clients competing in the global marketplace.**

Saskatchewan Analysis

A shared vision is an essential precondition to ongoing intergovernmental, intermodal and inter-firm coordination that is crucial to continually improving Canada's shared transportation network to keep pace with global competitors.

Consistent with its vision, Saskatchewan seeks a transportation network that provides travelers and shippers with quality, timely and safe services at a reasonable cost and that contributes to the economic and social development of the province. A viable, cost-effective and competitive transportation network is not merely essential for Canada's continued prosperity, but is critical to ensuring that the publicly-owned infrastructure is preserved from further deterioration and remains sustainable for future generations. Further, a competitive transportation network ensures that shippers are encouraged to allocate resources into the best opportunities to maximize consumer and producer surplus and best grow the overall economy.

The transportation network must be responsive to adapt to existing and future challenges. A renewed transportation network cannot occur through policies and infrastructure investments made in isolation by individual governments or firms. Canada needs a transportation policy that encompasses a shared vision for the future and that promotes and maintains a high quality network, while promoting innovation and competitiveness within and amongst modes.

Implications for Saskatchewan

Short-term minimal – this is only the start of a multi-year process.

In the long-term more competitive services, subject to appropriate public policy constraints have the potential to significantly improve service and costs for Saskatchewan shippers. But effective competition requires a balance between all sides (for example, railways and shippers). The danger is that regulatory reforms continue past trends of merely removing regulatory constraints from very one-sided relationships, such as that between railways and captive shippers. 'Market driven' cannot be allowed to be an excuse for simple abdication of a regulatory presence in a sector of the economy that is vital to the viability of most other economic sectors, particularly in Saskatchewan.

Saskatchewan's Position

Saskatchewan envisions a national regulatory environment that supports healthy working relationships between industry and transportation services. This regulatory environment must include three key principles: competition, co-operation, and commitment.

Saskatchewan's Planned Actions

Fully participate in Transport Canada's national Transportation Blueprint initiative over the next year.

Topic: Public Policy and Social Constraints

CTA Principles

Principle 5 (p. 313)
The transportation system conforms to the highest practicable safety standards.

Principle 6 (p. 313)
All Canadians require reasonable access to the transportation system. Where such access cannot be provided on a commercially viable basis, governments should only provide it in such a way as to minimize interference or modifications of the commercial system.

Principle 7 (p. 314)
Government interventions to provide non-commercial services occur in the most cost-effective way and, as far as possible, do not favour one mode over another.

Principle 8 (p. 314)
Providers of transportation services and infrastructure are compensated for any imposed public duties that cause them to incur additional costs in carrying out the imposed public duties.

Principle 9 (p. 314)
Fares, rates and conditions do not impose undue obstacles to the mobility of persons with disabilities.

Principle 10 (p. 314)
As far as practicable, the real costs of environmental effects are incorporated into taxes and user fees, and/or taken into account by regulations where that is more efficient and effective than direct charging.

Principle 11 (p. 314)
The transportation system and government policy should facilitate the ability of Canadian firms to compete internationally.

CTA Analysis

Review participants appear united in the belief that users and market forces, not government directives, should guide the transportation system. There is also broad recognition, however, of the need for some public support of infrastructure or accessibility for rural and remote communities (which is not exclusively a federal responsibility).

The first four principles describe an idealized competitive, market-driven transportation system. But social constraints are imposed on the transportation system. As the Panel recognized at the outset, there is more to transportation than economics.

It is desirable that such interventions be done as efficiently and cost-effectively as possible, however. The next set of principles [above] embodies the major public policy constraints to be imposed on an otherwise purely commercially driven transportation system.

Saskatchewan Recommendations

(II p. 22) **The vision statement must reflect a goal of the economic health and viability of the entire supply chain, not only transportation service providers.**

(II p. 24) **The vision statement must acknowledge that roads play an integral role in trade corridors nationally and internationally. To enable this vision, the federal government must commit to meaningful funding of trade corridor infrastructure.**

Saskatchewan Analysis

Saskatchewan supports the concept that communities should be the driving force behind an improved transportation system.

Transportation issues can no longer be confined within a single mode or a single jurisdiction. Modes are already inextricably linked in the economic landscape – they often both compete and co-operate. For example, trucks often move traffic to and from the rail system and compete directly with the rail movement. One mode's activities often have significant impacts on other modes. A clear example is the relationship between trucking and rail and the associated impacts on Saskatchewan's roads due to changes in grain rail transportation.

Identification and facilitation of "trade corridors" are considered the most effective ways to target resources towards current and future transportation needs. Such corridors must allow seamless connections among north-south and east-west destinations.

The federal government presently does not regulate roads/highways nor does it directly fund road infrastructure, except in national parks. As highways play an integral role in trade corridors nationally and internationally, Saskatchewan recommends that the CTA be amended to incorporate them as part of the national transportation vision and of sufficient national interest to merit meaningful federal infrastructure funding. The NTIS should form the basis of meaningful and long-term federal investment in road infrastructure.

Implications for Saskatchewan

Short-term minimal – this is only the start of a multi-year process.

In the long-term, as with the 'Competitive, Market-Driven Transportation System' topic, above, the ultimate regulatory structure of the transportation system, and the public policy constraints on the proposed guiding forces of competition and market forces, are crucial to the economic and social interests of Saskatchewan.

Saskatchewan's Position

Saskatchewan supports the concept that communities should be the driving force behind an improved transportation system.

Saskatchewan's Planned Actions

Fully participate in Transport Canada's national Transportation Blueprint initiative over the next year.

GLOSSARY OF TERMS

ACAP	Airport Capital Assistance Program.
Branchlines	Rail infrastructure that is used to provide a feeder service to mainline railways.
CTA	*The Canada Transportation Act*, S.C. 1996.
CTAgency	The Canadian Transportation Agency.
Cabotage	The carriage of domestic traffic (e.g. local travelers between two domestic points) by a foreign air carrier. Cabotage is prohibited by many countries, including Canada.[10]
Carrier	A person who is engaged in the for-hire transport of goods or passengers by any means of transport under the legislative authority of Parliament or the Province and who is subject to any prescribed conditions set out in the enabling legislation or accompanying regulation.
Class I railway	A "railway" within the legislative authority of Parliament and includes branches, extensions, sidings, railway bridges, tunnels, stations, depots, wharfs, rolling stock, equipment, stores, or other things connected with the railway, and communications or signalling systems and related facilities and equipment used for the railway's purposes.

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[10] Canada, Transport Canada, *Canada's Policy for International Scheduled Air Services, Issues for Discussion – Glossary* (Ottawa, February 2001) posted at http://www.tc.gc.ca/pol/en/airpolicy/Air_Policy_Menu_Page.htm

Competitive Line Rate (CLR)	A rate determined with respect to a shipper in accordance with section 133 of the CTA
Connecting carrier	A railway company, other than a local carrier, that moves traffic to or from an interchange over a portion of a continuous route in respect to which the railway company and the shipper agree on the movement of the traffic, including the applicable rate.
Co-terminalization	A foreign air cargo carrier could bring goods from its home country (e.g. U.S.) to a first destination in Canada (e.g. Winnipeg) and then proceed to a second destination within Canada (e.g. Regina) to deliver goods from its home country (with no pick-up and delivery of cargo within the receiving country).
FOA	Final Offer Arbitration
Interchange	A place where the line of one railway company connects with the line of another railway company and where loaded or empty cars may be stored until delivered or received by another railway company.
Interswitch	To transfer traffic from the lines of one railway company to the lines of another railway company in accordance with regulations made under section 128 of the CTA.
Modified sixth freedom	Allows a carrier to carry traffic from one foreign country (e.g. Canada) to the same country via the carrier's home country (e.g. U.S.).

NACAA	North American Common Aviation Area
NAS	National Airports System
NSC	National Safety Code for motor carriers
NTIS	National Transportation Investment Strategy.
PGRF	Prairie Grain Roads Funding Program.
Producer surplus	The excess of the total revenue received by a firm for its output of a product over the minimum that it would be willing to accept to maintain the same level of supply.
Regional Railway	A railway operating under either federal or provincial jurisdiction and includes its branches, extensions, sidings, railway bridges, tunnels, stations, depots, wharfs, rolling stock, equipment, stores, or other things connected with the railway, and communications or signaling systems and related facilities and equipment used for the railway's purposes.
Shipper	A person who sends or receives goods by means of a for-hire carrier or intends to do so.

Short line railway	A railway within the legislative authority of the Province and includes its branches, extensions, sidings, railway bridges, tunnels, stations, depots, rolling stock, equipment, stores or other things connected with the railway and communications or signalling systems and related facilities and equipment used for the railway's purposes.
Sixth Freedom	This right is not technically a separate right, and is not negotiated between states. It results from the ability of an airline to combine third and fourth freedom rights under different bilateral air transport agreements, such that the airline can offer a service between third countries by way of a connection in its home country. For example, Air Canada can fly a traveller in Los Angeles to Paris by combining rights under the Canada-U.S. and Canada-France agreements, connecting the passenger at Toronto.[11]
Sunk costs	Investments in an industrial facility that could not be recovered if the facility were to be closed.
Transportation network	This network encompasses all of infrastructure, services, relationships, and information flow that are a part of modern transportation.

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[11] *Ibid.*